

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

5 IN RE: NATIONAL :  
PRESCRIPTION : MDL No. 2804  
6 OPIATE LITIGATION :  
\_\_\_\_\_: Case No.  
7 : 1:17-MD-2804  
THIS DOCUMENT RELATES :  
8 TO ALL CASES : Hon. Dan A. Polster

Videotaped deposition of JAMES T. SCHOEN,  
14 held at the Hilton Garden Inn, Perrysburg, Ohio,  
15 commencing at 12:59 p.m., on the above date, before  
16 Carol A. Kirk, Registered Merit Reporter and Notary  
17 Public.

21 GOLKOW LITIGATION SERVICES  
877.370.3377 ph | 917.591.5672 fax  
22 deps@golkow.com

|    | Page 2  | Page 4                           |
|----|---|----------------------------------|
| 1  | A P P E A R A N C E S:                              |                                  |
| 2  | On behalf of the Plaintiffs:                        | 1 ALSO PRESENT:                  |
| 3  | MCHUGH FULLER LAW GROUP                             | 2 Michael Newell, Videographer   |
| 4  | BY: LANCE REINS, ESQUIRE                            | 3 Zachary Hone, Trial Technician |
| 5  | lance@mchughfuller.com                              | 4 - - -                          |
| 6  | ALLAN (A.J.) L. ELKINS, ESQUIRE                     | 5                                |
| 7  | allan@mchughfuller.com                              | 6                                |
| 8  | (via teleconference)                                | 7                                |
| 9  | 97 Elias Whiddon Road                               | 8                                |
| 10 | Hattiesburg, Mississippi 39402                      | 9                                |
| 11 | 601-261-2220  | 10                               |
| 12 | On behalf of AmerisourceBergen Corporation (via     | 11                               |
| 13 | teleconference and text/video streaming):           | 12                               |
| 14 | JACKSON KELLY PLLC                                  | 13                               |
| 15 | BY: SANDRA K. ZERRUSEN, ESQUIRE                     | 14                               |
| 16 | skzerrusen@jacksonkelly.com                         | 15                               |
| 17 | 50 South Main Street, Suite 201                     | 16                               |
| 18 | Akron, Ohio 44308                                   | 17                               |
| 19 | 330-252-9060  | 18                               |
| 20 | On behalf of HBC (via teleconference and text/video | 19                               |
| 21 | streaming):   | 20                               |
| 22 | MARCUS & SHAPIRA LLP                                | 21                               |
| 23 | BY: ELLY HELLER-TOIG, ESQUIRE                       | 22                               |
| 24 | ehtoig@marcus-shapira.com                           | 23                               |
| 1  | One Oxford Center, 35th Floor                       | 24                               |
| 2  | 301 Grant Street                                    |                                  |
| 3  | Pittsburgh, Pennsylvania 15219-6401                 |                                  |
| 4  | 412-338-3345  |                                  |
| 5  | On behalf of Walmart (via teleconference and        |                                  |
| 6  | text/video streaming):                              |                                  |
| 7  | JONES DAY   |                                  |
| 8  | BY: PATRICIA OCHMAN, ESQUIRE                        |                                  |
| 9  | pochman@jonesday.com                                |                                  |
| 10 | 901 Lakeside Avenue East                            |                                  |
| 11 | Cleveland, Ohio 44114                               |                                  |
| 12 | 216-586-3939  |                                  |
| 13 | On behalf of Prescription Supply, Inc.              | Page 3                           |
| 14 | FOX ROTHSCHILD LLP                                  |                                  |
| 15 | BY: JAMES C. CLARK, ESQUIRE                         |                                  |
| 16 | jclark@foxrothschild.com                            |                                  |
| 17 | STEPHAN A. CORNELL, ESQUIRE                         |                                  |
| 18 | scornell@foxrothschild.com                          |                                  |
| 19 | (via teleconference and text/video                  |                                  |
| 20 | streaming)  |                                  |
| 21 | 2700 Kelly Road, Suite 300                          |                                  |
| 22 | Warrington, Pennsylvania 18976-3624                 |                                  |
| 23 | 215-345-7500  |                                  |
| 24 | On behalf of Johnson & Johnson and                  |                                  |
| 1  | Janssen Pharmaceuticals:                            |                                  |
| 2  | TUCKER ELLIS LLP                                    |                                  |
| 3  | BY: JEFFREY M. WHITESELL, ESQUIRE                   |                                  |
| 4  | jeffrey.whitesell@tuckerellis.com                   |                                  |
| 5  | 950 Main Avenue, Suite 1100                         |                                  |
| 6  | Cleveland, Ohio 44113                               |                                  |
| 7  | 216-592-5000  |                                  |
| 8  | On behalf of McKesson (via teleconference and       |                                  |
| 9  | text/video streaming):                              |                                  |
| 10 | COVINGTON & BURLING LLP                             |                                  |
| 11 | BY: MARY YANG, ESQUIRE                              |                                  |
| 12 | myang@cov.com                                       |                                  |
| 13 | One CityCenter                                      |                                  |
| 14 | 850 Tenth Street, NW                                |                                  |
| 15 | Washington, DC 20001                                |                                  |
| 16 | 202-662-5110  |                                  |
| 17 | On behalf of HBC:                                   |                                  |
| 18 | MARCUS & SHAPIRA LLP                                |                                  |
| 19 | BY: MOIRA CAIN-MANNIX, ESQUIRE                      |                                  |
| 20 | cain-mannix@marcus-shapira.com                      |                                  |
| 21 | One Oxford Center, 35th Floor                       |                                  |
| 22 | 301 Grant Street                                    |                                  |
| 23 | Pittsburgh, Pennsylvania 15219-6401                 |                                  |
| 24 | 412-338-3345  |                                  |

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|    | Page 6  | Page 8   |
| 1  | VIDEOTAPED DEPOSITION OF JAMES T. SCHOEN          | Prescription Supply.                           |
| 2  | INDEX TO EXHIBITS                                 | MR. WHITESELL: Jeff                            |
| 3  | PSI - J. SCHOEN DESCRIPTION PAGE                  | Whitesell of Tucker Ellis on behalf            |
| 4  | PSI - J. Schoen 1 DEA Notice of Inspection of 124 | of Johnson & Johnson and Janssen.              |
| 5  | Controlled Substances,                            | MS. OCHMAN: Patricia Ochman,                   |
| 6  | Bates-stamped PSI-0000077                         | Jones Day, for Walmart.                        |
| 7  | PSI - J. Schoen 2 State of Ohio Board of 142      | MS. HELLER-TOIG: Elly                          |
| 8  | Pharmacy, Written Responses                       | Heller-Toig for HBC Services                   |
| 9  | for Prescription Supply,                          | Company from Marcus & Shapira.                 |
| 10 | Inc., Wholesaler/                                 | MS. YANG: Mary Yang with                       |
| 11 | Manufacturer, Category                            | Covington Burling for McKesson.                |
| 12 | Three, Wholesale                                  | MR. ELKINS: A.J. Elkins,                       |
| 13 | Distributor Inspection,                           | McHugh Fuller Law Group,                       |
| 14 | October 25, 2017,                                 | Plaintiffs.                                    |
| 15 | Bates-stamped PSI0000007                          | MR. CORNELL: Stephan                           |
| 16 | through 83  | Cornell, Fox Rothschild, for                   |
| 17 |   | Prescription Supply.                           |
| 18 |   | MS. ZERRUSEN: Sandy Zerrusen                   |
| 19 |   | from Jackson Kelly for                         |
| 20 |   | AmerisourceBergen.                             |
| 21 |   | THE VIDEOGRAPHER: The court                    |
| 22 |   | reporter today is Carol Kirk and               |
| 23 |   | will now swear in the witness.                 |
| 24 |   | - - -  |
|    | Page 7  | Page 9   |
| 1  | ---   | JAMES T. SCHOEN                                |
| 2  | P R O C E E D I N G S                             | being by me first duly sworn, as hereinafter   |
| 3  | ---   | certified, deposes and says as follows:        |
| 4  | THE VIDEOGRAPHER: We are now                      | EXAMINATION                                    |
| 5  | on the record. My name is Michael                 | BY MR. REINS:                                  |
| 6  | Newell and I'm a videographer for                 | Q. Good afternoon.                             |
| 7  | Golkow Litigation Services.                       | A. Hi.   |
| 8  | Today's date is                                   | Q. Could you please tell us your               |
| 9  | February 27th, 2019, and the time                 | name.  |
| 10 | is 12:59 p.m.                                     | A. James T. Schoen.                            |
| 11 | This video deposition is                          | Q. And have you been through a                 |
| 12 | being held in Perrysburg, Ohio, in                | deposition before?                             |
| 13 | the Matter of National Prescription               | A. Years ago with an auto accident.            |
| 14 | Opiate Litigation for the Northern                | I think I was maybe 18.                        |
| 15 | District of Ohio, Eastern Division.               | Q. Got it. The reason I ask is I'm             |
| 16 | The deponent today is James                       | just going to go over some of the ground rules |
| 17 | Schoen.   | for depositions. Your counsel has probably     |
| 18 | Will counsel please identify                      | advised you, but better safe than sorry.       |
| 19 | themselves.                                       | So, obviously, I'm going to be                 |
| 20 | MR. REINS: Lance Reins with                       | taking down -- I'm going to be asking the      |
| 21 | McHugh Fuller Law Group on behalf                 | questions here today. We have a court reporter |
| 22 | of the Plaintiff.                                 | who types everything that we say. Because of   |
| 23 | MR. CLARK: Jim Clark with                         | that, if you could please verbalize all your   |
| 24 | Fox Rothschild on behalf of                       | answers, no huh-uhs, um-hmms, or head nods     |

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| <p>1 because those can't be taken down, okay?</p> <p>2 A. Okay.</p> <p>3 Q. If you do so, I may say "Is that a</p> <p>4 yes or is that a no," because I'm looking for a</p> <p>5 verbal response. All right?</p> <p>6 A. Okay.</p> <p>7 Q. Please let me finish my question</p> <p>8 before you begin answering. Let me add a caveat</p> <p>9 to that.</p> <p>10 Your counsel is going to object to</p> <p>11 some my questions. So after I finish my</p> <p>12 question, if you could just wait a moment, allow</p> <p>13 him to object, and then you can respond. That</p> <p>14 way we're not talking over one another, okay?</p> <p>15 A. Okay.</p> <p>16 Q. Lastly, if you answer my question,</p> <p>17 I'm going to assume that you are doing two</p> <p>18 things. One, you understand the question, and,</p> <p>19 two, most importantly, you're telling the truth;</p> <p>20 is that fair?</p> <p>21 A. Yes.</p> <p>22 Q. If you don't know something or you</p> <p>23 don't understand my question, just let me know</p> <p>24 and I'll rephrase.</p> | <p>1 Q. Do you know what year he started</p> <p>2 the company?</p> <p>3 A. 1955.</p> <p>4 Q. Your dad is now the president?</p> <p>5 A. Yes.</p> <p>6 Q. His name is?</p> <p>7 A. Thomas G. Schoen.</p> <p>8 Q. And he runs the company along with</p> <p>9 his sister?</p> <p>10 A. Yes.</p> <p>11 Q. And what's her name?</p> <p>12 A. Jacquelyn Harbauer.</p> <p>13 Q. Do you know what her position is?</p> <p>14 A. Secretary.</p> <p>15 Q. How long have you held the</p> <p>16 position as controlled substance manager?</p> <p>17 A. Around 20 years.</p> <p>18 Q. Can you tell for us what that</p> <p>19 means to be the controlled substance manager for</p> <p>20 PSI?</p> <p>21 MR. CLARK: Objection; form.</p> <p>22 Q. What are your duties and</p> <p>23 responsibilities?</p> <p>24 A. What are my duties and</p>  |
| <p>Page 11</p> <p>1 A. Okay.</p> <p>2 Q. If you need a break for any</p> <p>3 reason, just let me know. It's not a marathon.</p> <p>4 We'll take a break when you need to, okay?</p> <p>5 A. Fine.</p> <p>6 Q. Can you please tell me what you do</p> <p>7 for a living.</p> <p>8 A. I work at Prescription Supply.</p> <p>9 I'm presently the controlled substance manager.</p> <p>10 Q. And what is Prescription Supply,</p> <p>11 Inc. in the business of doing?</p> <p>12 A. We're a pharmaceutical wholesaler.</p> <p>13 Q. And you distribute or provide</p> <p>14 medications to what type of customers?</p> <p>15 A. Mostly independent pharmacies,</p> <p>16 some doctors, and some outpatient pharmacies</p> <p>17 that are in hospitals.</p> <p>18 Q. And how long have you worked with</p> <p>19 the company?</p> <p>20 A. Since like 1986.</p> <p>21 Q. Was your grandfather the founder?</p> <p>22 A. Yes.</p> <p>23 Q. What was his name?</p> <p>24 A. Clarence J. Schoen.</p>  | <p>Page 13</p> <p>1 responsibilities? Pick and fill orders that</p> <p>2 come in, okay. Look at sales history. I do</p> <p>3 inventory. A lot of different things.</p> <p>4 Q. That's okay.</p> <p>5 A. I put in orders also, okay, and I</p> <p>6 release orders that come in that go to hold.</p> <p>7 All the C-II's go to holds. So I have to release</p> <p>8 those.</p> <p>9 Q. PSI deals in the business of</p> <p>10 distributing narcotics; is that correct?</p> <p>11 A. That's some of our business,</p> <p>12 correct.</p> <p>13 Q. Are you aware of the risks and</p> <p>14 dangers associated with narcotics in our</p> <p>15 society?</p> <p>16 MR. CLARK: Objection to</p> <p>17 form.</p> <p>18 A. Can you repeat?</p> <p>19 Q. Sure.</p> <p>20 Are you aware that there are</p> <p>21 certain narcotics that you're distributing that</p> <p>22 are highly addictive?</p> <p>23 MR. CLARK: Objection. Form.</p> <p>24 A. I've heard that.</p> |

| Page 14  | Page 16  |
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| <p>1 Q. What have you heard?</p> <p>2 MR. CLARK: Objection to</p> <p>3 form.</p> <p>4 A. That on some of the labels, it</p> <p>5 says they can be addictive.</p> <p>6 Q. Which ones?</p> <p>7 MR. CLARK: Objection to</p> <p>8 form.</p> <p>9 A. I think OxyContin was one and</p> <p>10 maybe hydrocodone.</p> <p>11 Q. And your company distributes both</p> <p>12 of those?</p> <p>13 MR. CLARK: Objection to</p> <p>14 form.</p> <p>15 A. Yes.</p> <p>16 Q. I've asked this question of, I</p> <p>17 think, two of your other family members, whether</p> <p>18 there has ever been any internal meetings</p> <p>19 regarding the addictive nature of oxycodone</p> <p>20 specifically, and I've been told there has not</p> <p>21 been.</p> <p>22 Do you agree with that?</p> <p>23 A. Yes.</p> <p>24 Q. Would you agree with me, though,</p>   | <p>1 addictive nature of oxycodone?</p> <p>2 MR. CLARK: Objection to</p> <p>3 form.</p> <p>4 A. No.</p> <p>5 Q. Other than the news, have you</p> <p>6 educated yourself as to the risks and dangers of</p> <p>7 oxycodone?</p> <p>8 MR. CLARK: Objection to</p> <p>9 form.</p> <p>10 A. Have I --</p> <p>11 Q. Educated yourself on what the</p> <p>12 risks and/or dangers might be.</p> <p>13 MR. CLARK: Same objection.</p> <p>14 A. No.</p> <p>15 MR. REINS: Did you get the</p> <p>16 answer "I don't know"?</p> <p>17 THE COURT REPORTER: Yes.</p> <p>18 BY MR. REINS:</p> <p>19 Q. All right. Sir, based on the fact</p> <p>20 that your company does distribute narcotics</p> <p>21 which have been certified or identified by the</p> <p>22 government, are you aware that there's federal</p> <p>23 regulations governing the distribution of the</p> <p>24 products that you sell?</p>   |
| <p>1 that we are in the middle of an opioid epidemic</p> <p>2 and/or crisis right now?</p> <p>3 MR. CLARK: Objection to</p> <p>4 form.</p> <p>5 A. I -- I see that in the news. I've</p> <p>6 never been affected, but I don't know anybody</p> <p>7 that has, you know, a problem with addiction.</p> <p>8 Q. I think -- is Candace your aunt?</p> <p>9 A. My cousin.</p> <p>10 Q. Cousin. I'm sorry. She said</p> <p>11 she's seen it on the news.</p> <p>12 Have you seen it on the news, that</p> <p>13 it's a problem?</p> <p>14 MR. CLARK: Objection to</p> <p>15 form.</p> <p>16 A. Have I seen -- yes, I've seen</p> <p>17 stuff on the news regarding opioids.</p> <p>18 Q. Have you ever attended any</p> <p>19 seminars, lectures, or meetings outside of your</p> <p>20 company regarding the addictive nature of</p> <p>21 oxycodone?</p> <p>22 A. No.</p> <p>23 Q. Have you ever read any of the</p> <p>24 congressional hearings or reports regarding the</p> | <p>1 A. Yes.</p> <p>2 Q. Okay. So, for instance, you're</p> <p>3 aware of the Controlled Substances Act, I would</p> <p>4 presume?</p> <p>5 A. I'm aware of it, yes.</p> <p>6 Q. Okay. Specifically --</p> <p>7 specifically, are you aware that distributors of</p> <p>8 controlled substances and Schedule I or II, the</p> <p>9 Attorney General shall register an applicant to</p> <p>10 distribute a controlled substance in Schedule I</p> <p>11 or II unless he determines that the issuance of</p> <p>12 such registration is inconsistent with the</p> <p>13 public interest.</p> <p>14 In determining the public</p> <p>15 interest, the following factors shall be</p> <p>16 considered: Maintenance of effective control</p> <p>17 against diversion of particular controlled</p> <p>18 substances into other than legitimate medical,</p> <p>19 scientific, and industrial channels.</p> <p>20 Do you agree that PSI has the duty</p> <p>21 to maintain effective controls against</p> <p>22 diversion?</p> <p>23 MR. CLARK: Objection. Form.</p> <p>24 A. No. The DEA issues us a license.</p> |

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| <p style="text-align: right;">Page 18</p> <p>1 Q. Yes, sir, and that's fair. But do<br/>     2 you agree that your company is responsible for<br/>     3 coming up with effective plans to prevent drug<br/>     4 diversions of the products that you distribute?</p> <p>5 MR. CLARK: Objection to<br/>     6 form.</p> <p>7 A. That's what the law is.</p> <p>8 Q. Yes, sir. And the law is also<br/>     9 that any suspicious orders, pursuant to the<br/>     10 federal regulations, include orders of unusual<br/>     11 size, orders deviating substantially from a<br/>     12 normal pattern, and orders of unusual frequency<br/>     13 shall be reported, correct?</p> <p>14 MR. CLARK: Objection to<br/>     15 form.</p> <p>16 A. That's what the law says.</p> <p>17 Q. Yes, sir. And I believe I asked<br/>     18 your dad about this. This is going to be in his<br/>     19 deposition when he was taken specifically as the<br/>     20 30(b), which means a corporate representative of<br/>     21 PSI speaking on behalf of the company.</p> <p>22 And this is going to be on page 59<br/>     23 of that deposition, specifically line 11.</p> <p>24 Your father was asked, as the</p> | <p style="text-align: right;">Page 20</p> <p>1 when these were passed in 1970 and '71,<br/>     2 respectively.</p> <p>3 MR. CLARK: Same objection.</p> <p>4 Q. Did your father testify honestly<br/>     5 and truthfully?</p> <p>6 MR. CLARK: Objection to<br/>     7 form. There's a question pending.<br/>     8 I don't think he answered the prior<br/>     9 question.</p> <p>10 Q. Okay.</p> <p>11 A. I'm not sure if I really<br/>     12 understand what you want.</p> <p>13 Q. Yes, sir. I'm just saying, you<br/>     14 agree with your father, who is also the 30(b)<br/>     15 representative, that there's a requirement that<br/>     16 suspicious orders, specifically regarding<br/>     17 preventing diversion into our society of<br/>     18 narcotics, that that shipping requirement<br/>     19 requires that suspicious orders not be shipped,<br/>     20 correct?</p> <p>21 MR. CLARK: Objection to<br/>     22 form.</p> <p>23 Q. You're aware of that?</p> <p>24 A. They should -- suspicious orders</p> |
| <p style="text-align: right;">Page 19</p> <p>1 president -- let me restate that -- as the 30(b)<br/>     2 representative of PSI:</p> <p>3 "What is your understanding of the<br/>     4 shipping requirement? And, quite honestly, it<br/>     5 shouldn't be the shipping requirement. It<br/>     6 should be the anti-shipping requirement, right?"</p> <p>7 "Answer: That's correct."</p> <p>8 "Okay. And is it your<br/>     9 understanding that the shipping requirement<br/>     10 means that if we have a suspicious order, we<br/>     11 need not to ship it?"</p> <p>12 "Answer: Yes."</p> <p>13 "And that has been the obligation<br/>     14 not just upon PSI, but all the distributors, to<br/>     15 your understanding, since 1971 when this<br/>     16 regulation was passed?"</p> <p>17 Answer on the next page at line 2,</p> <p>18 "Yes."</p> <p>19 You understand as -- you<br/>     20 understand that that not only is the law but has<br/>     21 been the law since 1971, correct?</p> <p>22 MR. CLARK: Objection to<br/>     23 form.</p> <p>24 Q. And I can show you the regulations</p>  | <p style="text-align: right;">Page 21</p> <p>1 should not be shipped.</p> <p>2 Q. Yes, sir. The law has been that<br/>     3 way since these Acts. These laws were enacted<br/>     4 in the early '70s, correct?</p> <p>5 MR. CLARK: Objection.</p> <p>6 Q. As your father testified?</p> <p>7 MR. CLARK: Objection. Same<br/>     8 objection.</p> <p>9 Q. Correct?</p> <p>10 MR. CLARK: Same objection.</p> <p>11 A. Okay. Ask the second -- ask the<br/>     12 second question again.</p> <p>13 Q. Of course. Yes.</p> <p>14 I'm saying you're aware that these<br/>     15 regulations that I read to you that we spoke<br/>     16 about were enacted in the early '70s; did you<br/>     17 know that?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And so the shipping<br/>     20 requirement that I'm speaking to you about has<br/>     21 been in place since the early '70s?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. Now I want to talk to you<br/>     24 about -- you mentioned the DEA. Before we get</p>                       |

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| <p style="text-align: right;">Page 22</p> <p>1 to that, let's cover some basic principles.<br/>     2 It appears that you have been or<br/>     3 are the one responsible for establishing<br/>     4 thresholds for varying families of narcotics for<br/>     5 some time; is that fair?</p> <p>6 MR. CLARK: Objection to<br/>     7 form.</p> <p>8 A. Yes.</p> <p>9 Q. I'd like you to take a moment and<br/>     10 describe for us the process and how you go about<br/>     11 establishing a threshold?</p> <p>12 A. Okay. I go about that by -- a lot<br/>     13 of things determine that. How many orders they<br/>     14 do per day, how many scripts they fill. They<br/>     15 fill out my questionnaire and I go off of that,<br/>     16 okay?</p> <p>17 So I read the questionnaire, okay?<br/>     18 And that's basically the basis point of how I<br/>     19 determine what they -- you know, what they<br/>     20 receive.</p> <p>21 Q. Okay.</p> <p>22 A. Okay. And I also, you know,<br/>     23 check -- I can check the population around them,<br/>     24 you know. They have to be a customer for a</p> | <p style="text-align: right;">Page 24</p> <p>1 dispensing more than a certain number of --<br/>     2 phentermine is one of them, hydrocodone,<br/>     3 oxycodone. Fentanyl is on there, prometh with<br/>     4 codeine. Tramadol is on there. Carisoprodol is<br/>     5 on there.</p> <p>6 Q. And you have them fill out this<br/>     7 questionnaire when you first start doing<br/>     8 business with them?</p> <p>9 A. It's before we do business -- when<br/>     10 they fill out their application, that is filled<br/>     11 out if they want -- if they expect to get<br/>     12 controls. Only about maybe 30 percent of our<br/>     13 customers get controls.</p> <p>14 Q. Okay.</p> <p>15 A. So not everybody fills one out.<br/>     16 In order to get controls, it must be filled out<br/>     17 and completed.</p> <p>18 Q. Will the questionnaire also<br/>     19 have -- will it ask them kind of their -- well,<br/>     20 let me just ask it this way: You maintain all<br/>     21 these questionnaires for your customers?</p> <p>22 MR. CLARK: Objection to<br/>     23 form.</p> <p>24 Q. You keep them?</p> |
| <p style="text-align: right;">Page 23</p> <p>1 little while before they get controls.</p> <p>2 Q. All right. Take that one at a<br/>     3 time, if you don't mind. Let's start with the<br/>     4 questionnaire.</p> <p>5 Did you come up with the<br/>     6 questionnaire?</p> <p>7 A. I helped.</p> <p>8 MR. CLARK: Objection to<br/>     9 form.</p> <p>10 Go ahead.</p> <p>11 A. I helped with it, yes.</p> <p>12 Q. Okay. And this questionnaire is<br/>     13 going to be asking what types of questions?</p> <p>14 A. It asks pharmacy information, if<br/>     15 they're affiliated with any other pharmacies,<br/>     16 how long they've been in business, what are<br/>     17 their store hours and what days are they open a<br/>     18 week, what is the percentage of controls to<br/>     19 non-controls they plan on purchasing, also what<br/>     20 they dispense, the amount of cash for controlled<br/>     21 substance prescriptions compared to credit<br/>     22 cards, insurance, Medicaid.</p> <p>23 It asks certain questions about<br/>     24 certain items, all right? If they plan on</p>    | <p style="text-align: right;">Page 25</p> <p>1 A. They're in a customer file,<br/>     2 correct.</p> <p>3 Q. And based off the answers to those<br/>     4 questions, if I'm hearing you right, from that,<br/>     5 you come up with a threshold?</p> <p>6 MR. CLARK: Objection to<br/>     7 form.</p> <p>8 A. That's very helpful. Yes.</p> <p>9 Q. Okay. You said -- one of the<br/>     10 things you said, it's the population around the<br/>     11 area. Do you look at that every time you set a<br/>     12 threshold?</p> <p>13 A. Not every time. If it's somebody<br/>     14 new and it's an area I'm not familiar with, I<br/>     15 will.</p> <p>16 Q. Okay. Any other information?<br/>     17 Does anyone -- let me ask you that. Any other<br/>     18 information you look at beyond the questionnaire<br/>     19 and potentially the population surrounding the<br/>     20 area if it's an area you're not familiar with?</p> <p>21 A. I sometimes will call the police<br/>     22 department and ask them if there's any areas of<br/>     23 concerns with controlled substances in that<br/>     24 area.</p>       |

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| <p style="text-align: right;">Page 26</p> <p>1 Q. All right. Do you document<br/>2 those -- the steps that you take in setting the<br/>3 threshold?</p> <p>4 MR. CLARK: Objection to<br/>5 form.</p> <p>6 Q. Like will you keep a file and say,<br/>7 "Hey, I called the police department," or, you<br/>8 know, "I've reached out, got some statistics on<br/>9 the population"?</p> <p>10 A. No.</p> <p>11 MR. CLARK: Just let me --<br/>12 objection to form.</p> <p>13 Go ahead.</p> <p>14 Q. I didn't hear your answer. I'm<br/>15 sorry.</p> <p>16 A. No. No.</p> <p>17 Q. All right. Any other information<br/>18 that goes into your analysis?</p> <p>19 A. I sometimes will look to see how<br/>20 many other pharmacies are in the immediate area<br/>21 also.</p> <p>22 Q. Okay. Anything else?</p> <p>23 MR. CLARK: Objection to<br/>24 form.</p>   | <p style="text-align: right;">Page 28</p> <p>1 MR. CLARK: Objection to<br/>2 form.<br/>3 A. Yes.<br/>4 Q. Why have a threshold?<br/>5 A. Why have a threshold?<br/>6 Q. Yeah. Why have one, specifically<br/>7 for opioids?</p> <p>8 MR. CLARK: Objection to<br/>9 form.<br/>10 A. Okay. Well, a threshold is very<br/>11 important.<br/>12 Q. Why?<br/>13 A. If somebody tells me they only --<br/>14 you know, dispense so many tablets a month,<br/>15 okay, and I set the threshold at that amount,<br/>16 I'm more aware, all right, when they reach that<br/>17 amount, if they do reach that amount. It's just<br/>18 very important to our use.</p> <p>19 Q. Why not just have unlimited<br/>20 opioids flowing into society? Why have a limit?<br/>21 MR. CLARK: Objection to<br/>22 form.<br/>23 A. That's not the right thing to do.<br/>24 Q. Why?</p>   |
| <p style="text-align: right;">Page 27</p> <p>1 Q. I'm not suggesting there is. I'm<br/>2 just asking. Does that cover it?</p> <p>3 A. Not that I can think of.</p> <p>4 Q. Fair enough.</p> <p>5 Do you take the duty and<br/>6 responsibility of setting a threshold seriously,<br/>7 especially when it comes to narcotics -- well,<br/>8 do you only set thresholds for narcotics?</p> <p>9 A. No.</p> <p>10 MR. CLARK: Objection.</p> <p>11 A. No.</p> <p>12 Q. What other medications?</p> <p>13 A. We have -- phentermine is on<br/>14 there, carisoprodol, tramadol, prometh with<br/>15 codeine. That is, codeine is an opioid, so<br/>16 narcotics, yes.</p> <p>17 Q. Okay. So the setting of the<br/>18 threshold, is that a duty and responsibility you<br/>19 take very seriously?</p> <p>20 A. Yes.</p> <p>21 Q. And do you put the time and the<br/>22 effort in there in order to ensure you perform<br/>23 the due diligence to come up with what you<br/>24 believe to be an accurate threshold?</p> | <p style="text-align: right;">Page 29</p> <p>1 MR. CLARK: Same objection.<br/>2 A. Because they have to be prescribed<br/>3 for a legitimate purpose and it's -- you know.<br/>4 Q. Let me show you what -- your<br/>5 father's words. This is going to be on page 28<br/>6 of his deposition as a 30(b) rep, line 4.<br/>7 "Tell us, tell the jury why we<br/>8 want to prevent diversion of controlled<br/>9 substances."<br/>10 "Well, as it states, we -- it can<br/>11 be dangerous. People can die. People can have<br/>12 bad effects and they can be abused. None of<br/>13 that is something that we want to happen. We<br/>14 want the good effects, not the bad effects."<br/>15 Do you agree?<br/>16 MR. CLARK: Objection to<br/>17 form.<br/>18 A. I agree that's his opinion.<br/>19 Q. Not yours?<br/>20 MR. CLARK: Same objection.<br/>21 A. I agree it could be dangerous,<br/>22 yes.<br/>23 Q. People can die, right?<br/>24 MR. CLARK: Same objection.</p> |

| Page 30  | Page 32   |
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| <p>1        A. It's a possibility.</p> <p>2        Q. Does that play into why you want<br/>3 to set a threshold, so that you can control the<br/>4 amount of opioids that are flowing into specific<br/>5 geographical areas of our country?</p> <p>6            MR. CLARK: Objection to<br/>7 form.</p> <p>8        A. Well, I set a threshold by what<br/>9 the customer tells me.</p> <p>10       Q. What do you mean, what they tell<br/>11 you?</p> <p>12       A. On their questionnaire.</p> <p>13       Q. You're the one that decides,<br/>14 though, right? Ultimately.</p> <p>15       MR. CLARK: Objection to<br/>16 form.</p> <p>17       A. How do I say -- I don't know if I<br/>18 totally agree with that, but ...</p> <p>19       Q. But you do know that the law puts<br/>20 the duty on your shoulders as the distributor to<br/>21 ensure that there aren't unusual amounts or<br/>22 frequency of amounts into society, right?</p> <p>23       MR. CLARK: Objection to<br/>24 form.</p>  | <p>1 back to '96.</p> <p>2       Q. Okay. Fair enough. Let's deal<br/>3 with that. Okay. When were the thresholds set?</p> <p>4       A. 2008.</p> <p>5       Q. Okay. You didn't have thresholds<br/>6 before then?</p> <p>7            MR. CLARK: Objection. Asked<br/>8 and answered.</p> <p>9       Q. And I'm not here to confuse you.<br/>10 I know that in 2008 you instituted a program<br/>11 that did a stop based on the thresholds. I<br/>12 understand that and I'm not here -- I'm not here<br/>13 to trick you or anything. But I believe I've<br/>14 seen documentation that there were thresholds<br/>15 set before then, even though they may have been<br/>16 handled differently.</p> <p>17           So before 2008 and after 2008 may<br/>18 be how we tackle this.</p> <p>19           Before 2008, when you had the stop<br/>20 shipment threshold system -- am I right? You<br/>21 had a threshold system implemented in 2008?</p> <p>22       MR. CLARK: Objection to<br/>23 form.</p> <p>24       A. In 2008, yeah.</p>                              |
| Page 31  | Page 33   |
| <p>1        A. That's what the law says, yes.</p> <p>2        Q. And you're required to abide by<br/>3 the law, right?</p> <p>4            MR. CLARK: Objection to<br/>5 form.</p> <p>6        A. Yes.</p> <p>7        Q. Let's talk about what you do if<br/>8 someone meets their thresholds on an opioid.<br/>9 They've reached their limit, so to speak. What<br/>10 is your process in order to determine -- well,<br/>11 what is your process when that happens?</p> <p>12           And I want to be clear. If that's<br/>13 changed in the last -- let's say since 1996. If<br/>14 your process has changed, let me know.</p> <p>15           But if somebody hits their limit,<br/>16 I'm told you're notified; is that accurate?</p> <p>17        A. The computer, yes, lets me know,<br/>18 yes, correct.</p> <p>19        Q. Yes, sir. And then I want to be<br/>20 in your shoes in that chair when that happens.<br/>21 What do you do?</p> <p>22        MR. CLARK: Objection to<br/>23 form.</p> <p>24        A. Okay. So the thresholds don't go</p> | <p>1        Q. Yes, sir.</p> <p>2        A. Yes.</p> <p>3        Q. And so before that, did you have<br/>4 thresholds on opioids or not?</p> <p>5            MR. CLARK: Same objection.</p> <p>6        A. I can't recall.</p> <p>7        Q. Okay. I know you've worked there<br/>8 for some time now, but you don't recall whether<br/>9 there were thresholds on opioids before 2008?</p> <p>10       A. Before 2008, a lot of people sent<br/>11 C-II forms in, all right, and I was able to put<br/>12 orders in. I could look at history, and that's<br/>13 how I, you know, was able to determine if<br/>14 somebody was buying more than what they usually<br/>15 did. So it was a sales history tool I used at<br/>16 that time.</p> <p>17       Q. All right.</p> <p>18       A. And I still use that today.</p> <p>19       Q. Let's talk about that process<br/>20 before 2008 as best you can recall, okay?</p> <p>21       A. Uh-huh.</p> <p>22       Q. All right. So would you still be<br/>23 notified if somebody hit their threshold before<br/>24 2008?</p> |

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| <p style="text-align: right;">Page 34</p> <p>1           MR. CLARK: Objection to<br/>2       form.<br/>3       A. I don't believe there was a<br/>4     threshold.<br/>5       Q. Okay.<br/>6       A. I would -- you know, if a customer<br/>7     sent me in a form, okay, I'd put the order in<br/>8     the computer.<br/>9       Q. Right.<br/>10      A. And as I'm putting it in by items,<br/>11   I can go back and look at sales history to<br/>12   determine what they bought, you know, in the<br/>13   past.<br/>14      Q. I see.<br/>15      A. Okay? And that's how I determined<br/>16   a lot of -- you know, how I could tell where<br/>17   they were at for the month and what they were<br/>18   buying and if it was unusual.<br/>19      Q. I got it. And you're right.<br/>20   There wasn't a quote/unquote "threshold" before<br/>21   2008 established by your company, correct?<br/>22      MR. CLARK: Objection to<br/>23   form.<br/>24      Q. Not that you didn't review things.</p>   | <p style="text-align: right;">Page 36</p> <p>1       with your eyeball with the sales history; is<br/>2     that fair to say?<br/>3       MR. CLARK: Objection to<br/>4     form.<br/>5       A. No. I monitor it with the<br/>6     computer. The computer told me that, you know,<br/>7     what they bought in the past of those particular<br/>8     items, yes.<br/>9       Q. So you would look at that when you<br/>10   were filling new orders?<br/>11      A. That's correct.<br/>12      Q. Got it.<br/>13      2008 forward, how would you<br/>14   determine whether to raise a threshold?<br/>15      A. The questionnaire, okay, how many<br/>16   scripts they do, all right, a day, the type of<br/>17   business they are, okay, if -- just the type of<br/>18   pharmacy.<br/>19      Q. That sounds like -- correct me if<br/>20   I am wrong. That sounds like the same<br/>21   information you would use to set the actual<br/>22   initial threshold.<br/>23      MR. CLARK: Objection to<br/>24   form.</p> |
| <p style="text-align: right;">Page 35</p> <p>1       I'm not disputing what you just told me. But<br/>2   there wasn't a number-of-pills threshold<br/>3   established by you before 2008, correct?<br/>4       MR. CLARK: Same objection.<br/>5       A. Not one that was set in the<br/>6   computer.<br/>7       Q. Right.<br/>8       A. So --<br/>9       Q. Did you have one not set in the<br/>10   computer?<br/>11      A. No. No.<br/>12      Q. Okay. All right. And then 2008,<br/>13   that's when you established the threshold system<br/>14   and you established thresholds, and you did it<br/>15   the way you just described to me, correct?<br/>16      MR. CLARK: Objection to<br/>17   form.<br/>18      Q. Questionnaire and the other<br/>19   information you may review, right?<br/>20      A. That's -- yes.<br/>21      Q. But before that time, you<br/>22   basically -- you would get the orders coming in<br/>23   and you would see what's being filled and what's<br/>24   being -- you would monitor it, I guess, more</p> | <p style="text-align: right;">Page 37</p> <p>1       Q. When I asked you how you would<br/>2   establish a threshold initially with these<br/>3   folks, I thought you said those very same<br/>4   things; is that right?<br/>5       A. That's correct, yes.<br/>6       Q. So the same information would<br/>7   allow you to raise the threshold?<br/>8       A. Are you asking about raising?<br/>9       Q. Yeah.<br/>10      MR. CLARK: I think you<br/>11   misunderstood. He said "raise"<br/>12   versus "set."<br/>13      A. Okay. All right.<br/>14      Q. I did.<br/>15      A. Okay.<br/>16      Q. So let me go ahead and ask it<br/>17   again, fair?<br/>18      A. Yes.<br/>19      Q. Will you please let me know, if<br/>20   you would, 2008 moving forward to present day,<br/>21   what type of information you would review in<br/>22   order to raise that initial threshold?<br/>23      A. Okay. So the initial thresholds<br/>24   sometimes are set lower because it's a newer</p>                    |

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| 1 customer, okay?<br>2 Q. Okay.<br>3 A. And as they get established with<br>4 me, I know more about the buying pattern, okay,<br>5 communication with the pharmacy. I call the<br>6 pharmacies a lot, talk to the pharmacist. I<br>7 have paperwork they fill out that asks them<br>8 questions about why they would want an increase<br>9 on a particular item.<br>10 Q. And so what type of paperwork<br>11 would that be that you would provide to them?<br>12 A. I have -- when I call them on the<br>13 phone, I will let them know there's an<br>14 increase -- there's a paperwork where they can<br>15 get -- they can ask for an increased amount of a<br>16 particular product they are in need of.<br>17 Q. Okay.<br>18 A. Okay.<br>19 Q. So you'll look at that form?<br>20 A. I'll fax it to them or it goes<br>21 with the driver to them and gets dropped off<br>22 after I call them, okay. And then when I get it<br>23 back, that's when I review it, yes.<br>24 Q. What in your mind are legitimate | Page 38<br>1 that time so that they can put an order in,<br>2 because they'll be on vacation for a week or so,<br>3 just so they have the stock.<br>4 Q. All right. I want to show you a<br>5 document. So this is going to be PSI<br>6 30(b)-301-001.<br>7 You're looking at a letter that<br>8 was issued to Cardinal September 27th, 2006, and<br>9 I'll tell you that it's basically been<br>10 stipulated that all the distributors got a<br>11 letter such as this, similar to this, and I<br>12 think your dad and your cousin, Candace, has<br>13 already testified to that.<br>14 Do you remember seeing this<br>15 letter? Not this letter, but obviously a<br>16 similar letter.<br>17 MR. CLARK: Objection to<br>18 form.<br>19 Q. And you can take a moment to look<br>20 it over. I'm not trying to rush you.<br>21 You don't have to read the whole<br>22 thing.<br>23 A. I don't recall. I don't recall<br>24 it, no.   |
| Page 39<br>1 reasons for increasing a threshold based on<br>2 their filling out of that paperwork?<br>3 MR. CLARK: Objection to<br>4 form.<br>5 A. There could be many things. A<br>6 pharmacy in the area could have closed.<br>7 Q. Okay.<br>8 A. There may be new doctors in that<br>9 particular area. Population growth. Maybe<br>10 they're getting more patients now.<br>11 There's a lot of reasons that come<br>12 into play that --<br>13 Q. Any others that you can think of?<br>14 And I know you're not doing an exhaustive list,<br>15 but any others you can think of?<br>16 MR. CLARK: Objection to<br>17 form.<br>18 A. Sometimes the pharmacy will call<br>19 and let me know that if a pharmacist is going to<br>20 be off, okay, if the main pharmacist or the<br>21 pharmacist in charge is going to be off and<br>22 somebody else is there who has not the<br>23 capability to buy -- purchase controls, they'll<br>24 ask me, okay, if I can raise it for them for                             | Page 41<br>1 Q. Fair enough.<br>2 So I do want to talk to you a<br>3 little bit about kind of some of the things that<br>4 are brought up in this letter, see if these are<br>5 concepts that you recall. So we'll talk about<br>6 the first paragraph, if you don't mind.<br>7 It says, "This letter is being<br>8 sent to every commercial entity in the<br>9 United States registered with the Drug<br>10 Enforcement Administration to distribute<br>11 controlled substances."<br>12 That would certainly be PSI,<br>13 correct?<br>14 A. Yes.<br>15 Q. "The purpose of this letter is to<br>16 reiterate the responsibilities of controlled<br>17 substance distributors in view of the<br>18 prescription drug abuse problem our nation<br>19 currently faces."<br>20 Under "Background," it says, "As<br>21 each of you is undoubtedly aware, the abuse,<br>22 non-medical use, of controlled prescription<br>23 drugs is a serious and growing health problem in<br>24 this country. DEA has an obligation to combat |

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| <p style="text-align: right;">Page 42</p> <p>1 this problem as one of the agency's core<br/>     2 functions is to prevent the diversion of<br/>     3 controlled substances into illicit channels."</p> <p>4 You're aware that that's one of<br/>     5 their duties and responsibilities, the DEA?</p> <p>6 A. Yes.</p> <p>7 Q. "Congress assigned DEA to carry<br/>     8 out this function through enforcement of the<br/>     9 Controlled Substance Act and DEA regulations<br/>     10 that implement the Act."</p> <p>11 Specifically, on the second page,<br/>     12 middle part there, I want to talk to you about<br/>     13 where it says, "The DEA regulations require all<br/>     14 distributors to report suspicious orders of<br/>     15 controlled substances." Specifically, the<br/>     16 regulations state in 21 C.F.R. 1301.74(b), "The<br/>     17 registrant shall design and operate a system to<br/>     18 disclose to the registrant suspicious orders of<br/>     19 controlled substances. The registrant shall<br/>     20 inform the Field Division Office of the<br/>     21 Administration in this area of suspicious orders<br/>     22 when discovered by the registrant. Suspicious<br/>     23 orders include orders of unusual size, orders<br/>     24 deviating substantially from a normal pattern,</p> | <p style="text-align: right;">Page 44</p> <p>1 A. That wouldn't meet -- if there was<br/>     2 a suspicious order, I would have sent them<br/>     3 information separate from this.</p> <p>4 Q. Separate from that?</p> <p>5 A. That's right, yes. That's<br/>     6 correct.</p> <p>7 Q. We'll talk about the report<br/>     8 specifically, but why don't you tell me what<br/>     9 type of information you would send to the DEA<br/>     10 before 2008, when you initiated the --<br/>     11 specifically, the threshold system.</p> <p>12 MR. CLARK: Objection to<br/>     13 form.</p> <p>14 Q. What did you send?</p> <p>15 A. Okay. Can you repeat that?</p> <p>16 Q. Sure. Yeah. Your -- Kirk, do you<br/>     17 know who Kirk is?</p> <p>18 A. Yes, I do.</p> <p>19 Q. He testified here today he was the<br/>     20 IT guy and he would do these reports pursuant to<br/>     21 these rules and submit those reports every<br/>     22 month.</p> <p>23 A. Yes.</p> <p>24 Q. Okay. As part of the suspicious</p>  |
| <p style="text-align: right;">Page 43</p> <p>1 and orders of unusual frequency."</p> <p>2 Are you aware that your company,<br/>     3 PSI, specifically submitted reports in writing<br/>     4 every month from approximately 1997 to 2013?</p> <p>5 MR. CLARK: Objection to<br/>     6 form.</p> <p>7 A. There was a variance report, yes.<br/>     8 I did look at that too.</p> <p>9 Q. Okay. And you're aware that the<br/>     10 law requires a suspicious order report be<br/>     11 submitted?</p> <p>12 A. Yes.</p> <p>13 MR. CLARK: Objection. Form.</p> <p>14 Q. And that qualified, pursuant to<br/>     15 PSI, as meeting your responsibilities under the<br/>     16 federal law, specifically the one that you're<br/>     17 looking at right here in that regard; fair to<br/>     18 say?</p> <p>19 MR. CLARK: Objection to<br/>     20 form.</p> <p>21 A. No, I don't agree with that. That<br/>     22 didn't meet suspicious order monitoring.</p> <p>23 Q. Okay. You had a different<br/>     24 monitoring system?</p>  | <p style="text-align: right;">Page 45</p> <p>1 order monitoring requirement under the federal<br/>     2 regulations, but you're saying no --</p> <p>3 MR. CLARK: Objection to<br/>     4 form. Misstates prior testimony.</p> <p>5 Q. You're saying no, he wasn't doing<br/>     6 it pursuant to the regulations; is that right?</p> <p>7 MR. CLARK: Same objection.</p> <p>8 A. No. No. These were sent, but<br/>     9 this didn't -- just because this was sent<br/>     10 doesn't constitute those as suspicious orders.<br/>     11 There could have been a suspicious order that<br/>     12 wouldn't show up on that report.</p> <p>13 Q. That wouldn't have shown up?</p> <p>14 A. Yeah. It's possible, yes.</p> <p>15 Q. For example?</p> <p>16 MR. CLARK: Objection to<br/>     17 form.</p> <p>18 A. I -- I -- I never had one, but,<br/>     19 you know, it would be possible. This report was<br/>     20 a variance report which just said, you know, if<br/>     21 somebody bought more than what the average was<br/>     22 we sold per month.</p> <p>23 Q. All right. So you did not -- your<br/>     24 testimony here today is that report was not in</p> |

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| <p style="text-align: right;">Page 46</p> <p>1 fulfillment of the duties and responsibilities<br/>     2 of the Code of Federal Regulations, correct?<br/>     3           MR. CLARK: Objection to<br/>     4           form.<br/>     5           A. I can't answer that. I don't<br/>     6 know -- I mean, it requires more than that.<br/>     7           MR. CLARK: Objection. Calls<br/>     8 for legal conclusion.<br/>     9           Q. You said, "We sent" -- "I sent<br/>     10 other reports." What other reports did you<br/>     11 send?<br/>     12           MR. CLARK: Objection.<br/>     13           Misstates his testimony.<br/>     14           A. Yeah. I didn't say I sent<br/>     15 reports.<br/>     16           Q. All right. What did your company<br/>     17 do, PSI, in regards to -- well, first of all,<br/>     18 let's get on the same page. What's a suspicious<br/>     19 order? How do you define a suspicious order?<br/>     20           A. How do I define -- a suspicious<br/>     21 order to me is if I contact the customer after<br/>     22 an order goes on hold that I'm curious about, an<br/>     23 order of interest, and I don't get an answer<br/>     24 that I believe I can be comfortable with, then</p> | <p style="text-align: right;">Page 48</p> <p>1           Q. What is the criteria?<br/>     2           MR. CLARK: Same objection.<br/>     3           Q. One at a time, if you don't mind.<br/>     4           A. Okay. So what's the first<br/>     5 question?<br/>     6           Q. I want you to define a suspicious<br/>     7 order since you're the only one that can do that<br/>     8 for PSI.<br/>     9           MR. CLARK: Objection to<br/>     10 form. Asked and answered.<br/>     11           A. Okay. So a suspicious order to me<br/>     12 is --<br/>     13           Q. Yeah, what defines as a -- well,<br/>     14 let me say this: Can you and I agree that the<br/>     15 law defines what a suspicious order is, right?<br/>     16           MR. CLARK: Objection to<br/>     17 form.<br/>     18           A. That's what the law is, yes.<br/>     19           Q. Unusual size, orders deviating<br/>     20 substantially from a normal pattern, an order of<br/>     21 unusual frequency. That is a suspicious order,<br/>     22 correct?<br/>     23           MR. CLARK: Objection to<br/>     24 form.</p>   |
| <p style="text-align: right;">Page 47</p> <p>1 that is a suspicious order.<br/>     2           Q. All right. Let's baby-step that.<br/>     3 So a suspicious order for you isn't a<br/>     4 significant variance of what they've ordered<br/>     5 before, right?<br/>     6           A. That can be part of it.<br/>     7           Q. It can be part of it.<br/>     8           So the suspicious order, if I'm<br/>     9 hearing you right, you are the only one in the<br/>     10 company that can determine what a suspicious<br/>     11 order is?<br/>     12           MR. CLARK: Objection to<br/>     13 form.<br/>     14           Q. Is that right?<br/>     15           MR. CLARK: Same objection.<br/>     16           A. I -- that's my job.<br/>     17           Q. All right. Well, I'm glad you're<br/>     18 here.<br/>     19           So tell me the criteria for you<br/>     20 being the sole person responsible for knowing<br/>     21 what a suspicious order is for PSI. What<br/>     22 qualifies as a suspicious order pursuant to you?<br/>     23           MR. CLARK: Objection to<br/>     24 form.</p>   | <p style="text-align: right;">Page 49</p> <p>1           A. According to the law, correct.<br/>     2           Q. According to the law?<br/>     3           A. Yes.<br/>     4           Q. Do you have a different<br/>     5 understanding in PSI?<br/>     6           A. No. I go -- do I have a different<br/>     7 understanding? No.<br/>     8           Q. Okay. So my understanding is, is<br/>     9 that you came up with -- or Online Systems or<br/>     10 Services, Inc. came up with a reporting<br/>     11 mechanism for your company in May of 1997 with<br/>     12 the help of the DEA to fulfill this requirement.<br/>     13           MR. CLARK: Objection to<br/>     14 form.<br/>     15           A. I wasn't -- I was not part of<br/>     16 that.<br/>     17           Q. Do you have an understanding of<br/>     18 why those reports that were submitted from May<br/>     19 of 1997 to 2013, what the purpose of those<br/>     20 reports were, or did you even know they were<br/>     21 submitting reports?<br/>     22           MR. CLARK: Hold on a second.<br/>     23           Let me get my objection.<br/>     24           Objection to form.</p> |

| Page 50   | Page 52   |
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| 1 Go ahead.<br>2 Q. You knew they were submitting<br>3 them --<br>4 THE COURT REPORTER: I didn't hear<br>5 the answer.<br>6 Q. What is your understanding of what<br>7 the purpose of those forms are?<br>8 MR. CLARK: Objection to<br>9 form.<br>10 A. Okay. So those forms were -- that<br>11 report gave the average amount of what we sold<br>12 to all of our customers for that month, okay?<br>13 And anybody that went above that average showed<br>14 up on the report that was submitted to the DEA.<br>15 Q. That is, by definition, orders<br>16 that deviate according to this rule, right?<br>17 MR. CLARK: Objection to<br>18 form.<br>19 Q. Let me strike that.<br>20 Why was that the system that was<br>21 developed with the help of the DEA? What was<br>22 your understanding of the purpose of working<br>23 with the DEA to submit those reports that were<br>24 specifically called suspicious order monitoring | 1 testified here today what he thought the purpose<br>2 was for, knew what the purpose of the form was<br>3 for?<br>4 MR. CLARK: Objection to<br>5 form. Objection; argumentative.<br>6 Let me get my objections in<br>7 before you answer, Jim.<br>8 A. Are you asking me Kirk's opinion?<br>9 Q. Do you think Kirk knew what his<br>10 job was?<br>11 MR. CLARK: Objection to<br>12 form. Objection; argumentative.<br>13 A. Yes.<br>14 Q. Okay. Let's go beyond Kirk.<br>15 Let's go beyond his testimony. Let's talk about<br>16 the company's policies and procedures.<br>17 Are you aware there's policies and<br>18 procedures?<br>19 MR. CLARK: Objection to<br>20 form.<br>21 A. Yes.<br>22 Q. Okay. All right. We're going to<br>23 look -- the first one is going to be called the<br>24 Controlled Substances, which was initiated or   |
| Page 51   | Page 53   |
| 1 reports?<br>2 You're aware they're called that?<br>3 A. Yes.<br>4 MR. CLARK: Objection to<br>5 form. Objection; argumentative.<br>6 You can answer.<br>7 Q. But it's your testimony today, is<br>8 they were not suspicious order monitoring<br>9 reports?<br>10 MR. CLARK: Objection to<br>11 form.<br>12 A. That's what they were called.<br>13 Q. Were they misleading?<br>14 MR. CLARK: Objection to<br>15 form. Objection; argumentative.<br>16 A. I wasn't involved -- I wasn't<br>17 involved in naming the report.<br>18 Q. Do you believe the DEA was misled<br>19 into what that report -- the purpose of what<br>20 that report was for?<br>21 MR. CLARK: Objection to<br>22 form.<br>23 A. No.<br>24 Q. Do you believe that Kirk, who   | 1 effective date of 2000, June of 2000.<br>2 All right. This is the policy<br>3 specifically dealing with controlled substances<br>4 for your company.<br>5 MR. CLARK: Do you have a<br>6 copy of that?<br>7 MR. REINS: I told you I was<br>8 going to reuse it, what we used<br>9 earlier.<br>10 MR. CLARK: I'm sorry. Yeah.<br>11 BY MR. REINS:<br>12 Q. "Regarding controlled substances,<br>13 Prescription Supply, Inc. will maintain proper<br>14 security, document and monitor all transactions<br>15 according to state and federal regulations."<br>16 The scope of this will apply to<br>17 several folks, including yourself and the IT<br>18 manager, correct?<br>19 MR. CLARK: Objection. Form.<br>20 Q. Under "Scope," second paragraph?<br>21 A. Okay. So what was your -- I see<br>22 that.<br>23 Q. Under "Responsibilities," it says,<br>24 third paragraph, "IT manager shall compile |

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| <p style="text-align: right;">Page 54</p> <p>1 reports monthly regarding purchases of<br/>     2 controlled substances threshold limits and<br/>     3 suspicious order monitoring."</p> <p>4           Do you see that?</p> <p>5           A. Yes.</p> <p>6           Q. Okay. If you go on the next page,<br/>     7 it says on the first full paragraph, "IT manager<br/>     8 shall compile reports monthly regarding<br/>     9 purchases of controlled substances, threshold<br/>     10 guidelines, and suspicious order monitoring.<br/>     11 Reports are to automatically be forwarded to<br/>     12 relevant agencies and DEA as appropriate."</p> <p>13           Kirk, who is the IT manager -- can<br/>     14 we agree on that?</p> <p>15           A. Yes.</p> <p>16           Q. -- talks about that these reports<br/>     17 were the reports that he forwarded in compliance<br/>     18 with the federal regulations and the company's<br/>     19 policies and procedures regarding suspicious<br/>     20 order monitoring, to be clear, the suspicious<br/>     21 order monitoring reports.</p> <p>22           Are you testifying here today that<br/>     23 in contradiction to Kirk, the policy, procedure,<br/>     24 federal regulation, that those reports were not</p> | <p style="text-align: right;">Page 56</p> <p>1 agreements" -- "reports," I'm sorry -- "consult<br/>     2 with IT manager for necessary changes, and<br/>     3 handle any concerns or problems as they arise.<br/>     4 Notification of appropriate agencies is to be<br/>     5 done in the event of concern regarding any<br/>     6 suspicious order."</p> <p>7           You've read this policy before<br/>     8 today, right?</p> <p>9           A. Yes. It's been a while. Yes.</p> <p>10          Q. All right. Now we're going to<br/>     11 look at -- oh, and I'm sorry. I don't know if<br/>     12 I -- for the record, that was PSI653 and 654.</p> <p>13          We're going to now look -- yeah.</p> <p>14 We're going to now look at another policy and<br/>     15 procedure, PSI, starting with 84, and this is<br/>     16 Inventory Controls.</p> <p>17          I think I might have an extra copy<br/>     18 of this one. Yep.</p> <p>19          A. Thanks.</p> <p>20          Q. Yes, sir.</p> <p>21          Now, have you seen this policy<br/>     22 before?</p> <p>23          A. Yes.</p> <p>24          Q. It says, "Prescription Supply,</p> |
| <p style="text-align: right;">Page 55</p> <p>1 submitted for that purpose?</p> <p>2           MR. CLARK: Objection to<br/>     3 form. Objection to speech.</p> <p>4           Objection; misstates Kirk's prior<br/>     5 testimony.</p> <p>6           You can answer.</p> <p>7           A. No, they were part of that.</p> <p>8           Q. Okay.</p> <p>9           A. They were part of the submittal,<br/>     10 yes.</p> <p>11          Q. All right. Now, the next part --<br/>     12 actually, forgive me. The next paragraph<br/>     13 says -- or actually, the last sentence, it says,<br/>     14 "Copies are to be given to DR/DR supervisor with<br/>     15 all concerns discussed."</p> <p>16          Who would that be, the DR/DR<br/>     17 supervisor?</p> <p>18          A. My dad saw those, Thomas Schoen.</p> <p>19          Q. Fair enough.</p> <p>20          A. And I also reviewed them.</p> <p>21          Q. You reviewed it as well?</p> <p>22          A. Yes.</p> <p>23          Q. Okay. It says, "DR/DR supervisor<br/>     24 shall review all relevant purchase and sales</p>  | <p style="text-align: right;">Page 57</p> <p>1 Inc. will monitor inventory for cyclical<br/>     2 accounts, suspicious purchases and losses,<br/>     3 theft, or otherwise missing products."</p> <p>4           And this was effective again in<br/>     5 June of 2000, correct?</p> <p>6           MR. CLARK: Objection to<br/>     7 form.</p> <p>8           A. That's what it says, yes.</p> <p>9           Q. Are you aware of any policies and<br/>     10 procedures that were enacted regarding<br/>     11 controlled substances and/or inventory controls<br/>     12 before 2000?</p> <p>13          A. Ask that one more time.</p> <p>14          Q. Are you aware of any policies and<br/>     15 procedures that came before these in 2000<br/>     16 dealing with the issues we're discussing here<br/>     17 today?</p> <p>18          MR. CLARK: Objection to<br/>     19 form.</p> <p>20          A. I can't remember.</p> <p>21          Q. Fair enough.</p> <p>22          "Policy: Prescription Supply,<br/>     23 Inc. will monitor inventory for" -- I'm sorry.</p> <p>24 Forgive me. This applies again to a number of</p>                           |

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| <p style="text-align: right;">Page 58</p> <p>1 folks, including you and the IT manager.<br/>     2 I want to talk to you about<br/>     3 "Responsibilities" at the bottom of the page.<br/>     4 "IT managers shall be responsible for suspicious<br/>     5 order monitoring reports and sharing concerns<br/>     6 with DR/DR supervisor. He/she is responsible<br/>     7 for sending all reports to DEA and governing<br/>     8 state agencies and maintaining records for at<br/>     9 least six years as required by law."<br/>     10 And you understand that at least<br/>     11 from 1997 to 2013, according to Kirk's<br/>     12 testimony, these were the only reports that were<br/>     13 submitted during that time period? You're aware<br/>     14 of that, correct?</p> <p>15 MR. CLARK: Objection to<br/>     16 form.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Now, next paragraph,<br/>     19 "Controlled substance handler shall be<br/>     20 responsible for monitoring all controlled drug<br/>     21 purchases in coordination with IT manager.<br/>     22 He/she shall report any unaccounted losses or<br/>     23 problems to DR/DR supervisor, and when<br/>     24 delegated, to appropriate authority, Northwood</p> | <p style="text-align: right;">Page 60</p> <p>1 MR. CLARK: Objection to<br/>     2 form.<br/>     3 A. Not the question -- this is<br/>     4 separate from the questionnaire, after the fact,<br/>     5 after I have talked and spoken to the pharmacy.<br/>     6 Q. What do you create? What's the<br/>     7 document?</p> <p>8 MR. CLARK: Objection to<br/>     9 form.<br/>     10 A. It's an increased controlled<br/>     11 substance purchase form they fill out.<br/>     12 Q. Do you specify the reasons for<br/>     13 which you approve the increase of the threshold?<br/>     14 A. I ask the pharmacist for the<br/>     15 reasons why they want an increase.<br/>     16 Q. Right. But the form that you fill<br/>     17 out, you fill out the form, right?<br/>     18 A. No. The pharmacy fills out the<br/>     19 form.<br/>     20 Q. Okay. What I'm asking you, is<br/>     21 there any documentation that you create for<br/>     22 justifying the increase of a threshold that you<br/>     23 document, that you create?</p> <p>24 MR. CLARK: Objection to</p> |
| <p style="text-align: right;">Page 59</p> <p>1 Police/DEA. Controlled substances handlers<br/>     2 shall also document all transactions and<br/>     3 communications, holding copies of all paperwork<br/>     4 as required by law for at least six years."</p> <p>5 We talked about establishing the<br/>     6 thresholds, right? I think I asked you, you did<br/>     7 not create any documentation when you<br/>     8 established the initial threshold. Did you<br/>     9 create any documentation when you raised<br/>     10 thresholds?</p> <p>11 MR. CLARK: Objection to<br/>     12 form.</p> <p>13 A. What do you mean, "create"?</p> <p>14 Q. Did you create a form? Did you<br/>     15 have any documentation to show why you raised<br/>     16 it, what your thought processes were?</p> <p>17 MR. CLARK: Objection to<br/>     18 form.</p> <p>19 A. I have the paper that is the<br/>     20 increase for the customer that I give them.</p> <p>21 Q. Yeah. I got it; you get the<br/>     22 questionnaire back. But do you create any<br/>     23 paperwork justifying the raising of a threshold<br/>     24 that you initially set?</p>   | <p style="text-align: right;">Page 61</p> <p>1 form.<br/>     2 A. No.<br/>     3 Q. Okay. Do you still have that<br/>     4 letter from the DEA?</p> <p>5 MR. CLARK: The one you<br/>     6 showed him here?</p> <p>7 MR. REINS: Yes.</p> <p>8 MR. CLARK: It's a broad<br/>     9 question.</p> <p>10 A. The Cardinal Health one?</p> <p>11 Q. The one I handed you, yes, sir.</p> <p>12 A. Yes.</p> <p>13 Q. The one dated September 27, 2006?</p> <p>14 A. Yes.</p> <p>15 Q. We kind of got a little off track<br/>     16 through my fault, but what I want to talk to you<br/>     17 about -- I think we got through the regulation.</p> <p>18 You agree that the increasing of a<br/>     19 threshold is an important responsibility?</p> <p>20 You've got to be careful before<br/>     21 you increase a threshold, right?</p> <p>22 MR. CLARK: Objection to<br/>     23 form.</p> <p>24 A. I have to verify with the customer</p>  |

| Page 62  | Page 64   |
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| <p>1 the reasoning for that.</p> <p>2 Q. Right. Is it more than just a</p> <p>3 phone call and taking their word, though?</p> <p>4 A. Yes. I have paperwork I give</p> <p>5 them.</p> <p>6 Q. Right. For instance --</p> <p>7 A. Yes.</p> <p>8 MR. CLARK: Go ahead. Do you</p> <p>9 have something you want to say?</p> <p>10 A. It is more than that. It is the</p> <p>11 relationship I've established with the customer,</p> <p>12 how long I've been dealing with them. A lot of</p> <p>13 things take place.</p> <p>14 Q. Sure. Especially if they've been</p> <p>15 ordering a consistent amount of narcotics, and</p> <p>16 then after all these years of a relationship,</p> <p>17 they ask for more, right?</p> <p>18 MR. CLARK: Objection to</p> <p>19 form.</p> <p>20 Q. That would be something you'd</p> <p>21 consider, right?</p> <p>22 MR. CLARK: Objection to</p> <p>23 form.</p> <p>24 A. What do you mean?</p>  | <p>1 the name of that first medicine, narcotic?</p> <p>2 A. Phentermine.</p> <p>3 Q. And then what's the next one?</p> <p>4 A. Hydrocodone.</p> <p>5 Q. And then the last one?</p> <p>6 A. Alprazolam.</p> <p>7 Q. "While ordering few, if any, of</p> <p>8 other drugs."</p> <p>9 Would you agree that that is</p> <p>10 potentially indicative of diversion, that</p> <p>11 behavior?</p> <p>12 MR. CLARK: Objection to</p> <p>13 form.</p> <p>14 Q. Number 1.</p> <p>15 A. No, not always.</p> <p>16 Q. No. I'm just asking you if that's</p> <p>17 a circumstance that might be indicative of</p> <p>18 diversion.</p> <p>19 MR. CLARK: Objection to</p> <p>20 form.</p> <p>21 A. That's a circumstance why I may</p> <p>22 want to call the pharmacy, yes.</p> <p>23 Q. Well, you'd definitely want to</p> <p>24 call the pharmacy --</p>  |
| <p>1 Q. That's okay. I'll ask it</p> <p>2 differently.</p> <p>3 Look at page 3, if you don't mind,</p> <p>4 on the DEA letter.</p> <p>5 A. Okay.</p> <p>6 Q. Can you and I agree that a</p> <p>7 pharmacist -- or a customer, let me just say,</p> <p>8 requesting more than the threshold that you</p> <p>9 established, is suspicious?</p> <p>10 MR. CLARK: Objection to</p> <p>11 form.</p> <p>12 A. No.</p> <p>13 Q. Okay. All right. I'd like to</p> <p>14 talk to you about -- so on this page, it says,</p> <p>15 "Circumstances that might be indicative of</p> <p>16 diversion. DEA investigations have revealed</p> <p>17 that certain pharmacies engaged in</p> <p>18 dispersing" -- "dispensing controlled substances</p> <p>19 for other than a legitimate medical purpose</p> <p>20 often display one or more of the following</p> <p>21 characteristics in their pattern of ordering</p> <p>22 controlled substances: "1. Ordering excessive</p> <p>23 quantities of a limited variety of controlled</p> <p>24 substances, ergo ordering only" -- do you know</p> | <p>1 MR. CLARK: Objection to</p> <p>2 form.</p> <p>3 Q. -- at a minimum, right?</p> <p>4 MR. CLARK: Objection to</p> <p>5 form.</p> <p>6 A. Yes, I'd do that.</p> <p>7 Q. "2. Ordering a limited variety of</p> <p>8 controlled substances in quantities</p> <p>9 disproportionate to the quantity of</p> <p>10 non-controlled medications ordered."</p> <p>11 Would you agree that could raise a</p> <p>12 red flag?</p> <p>13 A. At times, yes.</p> <p>14 Q. "3. Ordering excessive quantities</p> <p>15 of a limited variety of controlled substances in</p> <p>16 combination with excessive quantities of</p> <p>17 lifestyle drugs."</p> <p>18 Would that raise a concern?</p> <p>19 A. What's a lifestyle drug? Can you</p> <p>20 explain it to me, what they mean by that?</p> <p>21 Q. Did you ever ask the DEA what they</p> <p>22 meant by that?</p> <p>23 MR. CLARK: Objection to</p> <p>24 form.</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 A. No.</p> <p>2 Q. "4. Ordering the same controlled</p> <p>3 substance from multiple distributors."</p> <p>4 That would certainly raise a flag,</p> <p>5 right?</p> <p>6 MR. CLARK: Objection to</p> <p>7 form.</p> <p>8 A. Yeah. That's very hard to tell.</p> <p>9 I can't tell if people do that, but I do ask</p> <p>10 that question on the questionnaire.</p> <p>11 Q. And that's fair. You put a lot of</p> <p>12 weight in the questionnaire. Do you believe</p> <p>13 these pharmacists are all -- do you believe</p> <p>14 there's a high level of honesty in the</p> <p>15 completion of these questionnaires that you give</p> <p>16 them?</p> <p>17 MR. CLARK: Objection to</p> <p>18 form.</p> <p>19 A. When I get the questionnaires?</p> <p>20 Q. Yeah. Do you believe they're</p> <p>21 being honest with you?</p> <p>22 MR. CLARK: Objection to</p> <p>23 form.</p> <p>24 A. I've had questionnaires that have</p>                               | <p style="text-align: right;">Page 68</p> <p>1 Q. Sorry. Is that a question that</p> <p>2 you should ask if they -- before raising a</p> <p>3 threshold? Or actually, even before</p> <p>4 establishing a threshold, right?</p> <p>5 MR. CLARK: Objection to</p> <p>6 form.</p> <p>7 A. You mean before establishing as a</p> <p>8 customer?</p> <p>9 Q. Yes.</p> <p>10 A. Yeah, I ask that on the</p> <p>11 questionnaire. I do ask this question. And</p> <p>12 they will -- I will get a dispensing report too</p> <p>13 that I will sometimes try to match up with what</p> <p>14 they tell me on their purchases.</p> <p>15 Q. What is a dispensing report?</p> <p>16 A. Pharmacy, a dispensing report --</p> <p>17 you know, it's what they dispense, all the</p> <p>18 medications they dispense for the month.</p> <p>19 Q. Okay.</p> <p>20 "2. Is the pharmacy complying</p> <p>21 with the laws of every state in which it is</p> <p>22 dispensing controlled substances?"</p> <p>23 Is that something you ask?</p> <p>24 A. I ask what they're licensed in.</p> |
| <p style="text-align: right;">Page 67</p> <p>1 been falsified, yes, that I've identified.</p> <p>2 Q. So you know that that can happen,</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. Meaning just because they say it</p> <p>6 doesn't mean it's necessarily true, right?</p> <p>7 MR. CLARK: Objection to</p> <p>8 form.</p> <p>9 A. Possibly, yes.</p> <p>10 Q. So it says, "A distributor" --</p> <p>11 underneath that -- "seeking to determine whether</p> <p>12 a suspicious order is indicative of diversion of</p> <p>13 controlled substances to other than legitimate</p> <p>14 medical channels may wish to inquire with the</p> <p>15 ordering pharmacy about the following: 1, what</p> <p>16 percentage of the pharmacy's business does</p> <p>17 dispensing controlled substances constitute?"</p> <p>18 You agree that's a legitimate</p> <p>19 question?</p> <p>20 MR. CLARK: Objection to</p> <p>21 form.</p> <p>22 A. Yes.</p> <p>23 Q. Is that a question --</p> <p>24 A. Yes, I do. Yes.</p> | <p style="text-align: right;">Page 69</p> <p>1 Q. Okay. Do you ask if they're</p> <p>2 compliant with the laws?</p> <p>3 A. Do I ask that on the</p> <p>4 questionnaire?</p> <p>5 Q. Or when you pick up the phone?</p> <p>6 MR. CLARK: Objection to</p> <p>7 form.</p> <p>8 A. I believe that question is on the</p> <p>9 questionnaire.</p> <p>10 Q. "3. Is the pharmacy soliciting</p> <p>11 buyers of controlled substances via the Internet</p> <p>12 or is the pharmacy associated with an Internet</p> <p>13 site that solicits orders for controlled</p> <p>14 substances?"</p> <p>15 Is that on your questionnaire?</p> <p>16 A. Yes. We do ask if it's an</p> <p>17 Internet pharmacy, if that's what you're asking.</p> <p>18 Q. Yes.</p> <p>19 A. Yes. We've never dealt with an</p> <p>20 Internet pharmacy.</p> <p>21 Q. You don't?</p> <p>22 A. Never.</p> <p>23 Q. Okay. Do you deal with a</p> <p>24 pharmacy -- so you don't deal with any</p>   |

| Page 70   | Page 72  |
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| <p>1 pharmacies that solicit via the Internet?</p> <p>2 MR. CLARK: Objection to</p> <p>3 form.</p> <p>4 A. We don't deal with any pharmacies</p> <p>5 that are Internet pharmacies at all. You have</p> <p>6 to walk into the pharmacy to pick up your</p> <p>7 prescription.</p> <p>8 Q. I know, but can a pharmacy solicit</p> <p>9 Internet business, even if it's a bricks and</p> <p>10 mortar?</p> <p>11 MR. CLARK: Objection.</p> <p>12 A. They can have a website.</p> <p>13 Q. Right. And can they solicit</p> <p>14 business that way?</p> <p>15 MR. CLARK: Objection to</p> <p>16 form.</p> <p>17 A. Solicit business?</p> <p>18 Q. Yes, via the Internet.</p> <p>19 MR. CLARK: Same objection.</p> <p>20 A. They can make people aware they</p> <p>21 are there.</p> <p>22 Q. "4. Does the pharmacy or Internet</p> <p>23 site affiliated with the pharmacy offer to</p> <p>24 facilitate the acquisition of a prescription for</p>   | <p>1 appropriate.</p> <p>2 Q. Okay. And you would be nervous if</p> <p>3 a pharmacy filled scripts that way, right?</p> <p>4 MR. CLARK: Objection to</p> <p>5 form.</p> <p>6 A. I would not be comfortable with</p> <p>7 that.</p> <p>8 Q. May be a good question to ask them</p> <p>9 in the future?</p> <p>10 MR. CLARK: Objection to</p> <p>11 form.</p> <p>12 A. Yeah.</p> <p>13 Q. "6. Are the prescribing</p> <p>14 practitioners licensed to practice medicine in</p> <p>15 the jurisdictions to which the controlled</p> <p>16 substances are being shipped, if such a license</p> <p>17 is required by state law?"</p> <p>18 Do you ensure or do you require</p> <p>19 that you get a license -- proof of license of</p> <p>20 all the pharmacists?</p> <p>21 A. Yes, of the pharmacists, yes.</p> <p>22 Q. Is that going to be in your file?</p> <p>23 MR. CLARK: Objection to</p> <p>24 form.</p>   |
| <p style="text-align: center;">Page 71</p> <p>1 a controlled substance from a practitioner with</p> <p>2 whom the buyer has no preexisting relationship?"</p> <p>3 Do you ask that question?</p> <p>4 A. Which page is that?</p> <p>5 Q. Number 4. Do you ask that?</p> <p>6 A. We ask that question, yes.</p> <p>7 Q. Okay. "5. Does the pharmacy fill</p> <p>8 prescriptions issued by practitioners based</p> <p>9 solely on an online questionnaire without a</p> <p>10 medical examination or bona fide doctor/patient</p> <p>11 relationship?"</p> <p>12 Do you ask that question, if you</p> <p>13 know?</p> <p>14 A. Okay. We don't ask that specific</p> <p>15 question, no.</p> <p>16 Q. Seem like a good question to ask?</p> <p>17 MR. CLARK: Objection to</p> <p>18 form.</p> <p>19 A. So that question is asking if they</p> <p>20 just -- they don't see the patient?</p> <p>21 Q. Right.</p> <p>22 A. It's just online?</p> <p>23 Q. Right.</p> <p>24 A. Well, I don't believe that's</p> | <p style="text-align: center;">Page 73</p> <p>1 A. We ask for the license number and</p> <p>2 stuff like that, and we review them and we go</p> <p>3 online to make sure they're still active.</p> <p>4 Q. Has it come to your attention that</p> <p>5 some of the pharmacists you supplied were not</p> <p>6 licensed in the state they represented?</p> <p>7 MR. CLARK: Objection to</p> <p>8 form.</p> <p>9 A. Say that one more time.</p> <p>10 Q. Have you ever found out that any</p> <p>11 of the pharmacists were unlicensed?</p> <p>12 MR. CLARK: Objection to</p> <p>13 form.</p> <p>14 A. No.</p> <p>15 Q. You don't remember any</p> <p>16 investigations into that?</p> <p>17 A. I don't recall, no.</p> <p>18 Q. "7. Are one or more of the</p> <p>19 practitioners writing a disproportionate share</p> <p>20 of the prescriptions for controlled substances</p> <p>21 being filled by the pharmacy?"</p> <p>22 Is that a question you ask?</p> <p>23 A. Yes.</p> <p>24 Q. "8. Does the pharmacy offer to</p> |

| Page 74   | Page 76  |
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| <p>1 sell controlled substances without a<br/>     2 prescription?"<br/>     3 Do you ask that?<br/>     4 A. No, we do not ask that.<br/>     5 Q. "9. Does the pharmacy charge<br/>     6 reasonable prices for controlled substances?"<br/>     7 Do you ask that?<br/>     8 A. No.<br/>     9 Q. "10. Does the pharmacy accept<br/>     10 insurance payment for purchases of controlled<br/>     11 substances made via the Internet?"<br/>     12 Do you ask that question?<br/>     13 A. Yes.<br/>     14 Well, wait. Does the pharmacy<br/>     15 accept insurance payment on purchases of<br/>     16 controlled substances made via the Internet? I<br/>     17 don't deal with pharmacies that -- explain --<br/>     18 okay. So does the pharmacy show ... I don't ask<br/>     19 that question.</p> <p>20 Q. Let me just step back. Let's just<br/>     21 step back and take a breath.</p> <p>22 If you've set a threshold with a<br/>     23 company and you put the time and the effort into<br/>     24 setting that threshold and they want to raise</p> | <p>1 Q. And that takes time, right?<br/>     2 MR. CLARK: Objection to<br/>     3 form.<br/>     4 A. Yes.<br/>     5 Q. How much time does it take?<br/>     6 MR. CLARK: Objection to<br/>     7 form.<br/>     8 A. That can vary.<br/>     9 Q. What would it vary between?<br/>     10 MR. CLARK: Objection to<br/>     11 form.<br/>     12 A. There's just a lot of reasons.<br/>     13 Sometimes it could take a day or two.<br/>     14 Q. Okay. Take longer?<br/>     15 A. Not usually.<br/>     16 Q. In that day or two that you take,<br/>     17 are these all the inquiries that you should be<br/>     18 making?<br/>     19 MR. CLARK: Objection to<br/>     20 form.<br/>     21 A. It wouldn't be inquiries.<br/>     22 Q. What satisfies you before you<br/>     23 raise a threshold again?<br/>     24 Because here's why I'm asking.</p>  |
| <p>1 it -- and I understand there's paperwork that's<br/>     2 required -- you're going to do your due<br/>     3 diligence, right, before you raise the<br/>     4 threshold; fair to say?</p> <p>5 MR. CLARK: Objection to<br/>     6 form.<br/>     7 A. Yes.<br/>     8 Q. You're going to ask all the<br/>     9 questions. You're going to make sure they fill<br/>     10 out that form. If there's areas you're going to<br/>     11 inquire, any of these questions, you're going to<br/>     12 do all of that; is that fair to say?</p> <p>13 MR. CLARK: Objection to<br/>     14 form.<br/>     15 A. All of these questions<br/>     16 (indicating)?<br/>     17 Q. Well, you're going to do -- you're<br/>     18 going to do -- I mean, it may not be every one<br/>     19 of these, but you're going to investigate and<br/>     20 ensure, before you raise a threshold, that it's<br/>     21 a safe practice to do so, right?</p> <p>22 MR. CLARK: Objection to<br/>     23 form.<br/>     24 A. Yes.</p>   | <p>1 You told me you put a lot of time and effort<br/>     2 into that initial threshold, and you do your<br/>     3 research, you do your due diligence, you come up<br/>     4 with a number.<br/>     5 So if somebody wants to elevate<br/>     6 that number after you take those steps, sitting<br/>     7 here I'm thinking that's kind of a big deal,<br/>     8 because you've done the work on the front end,<br/>     9 right?<br/>     10 MR. CLARK: Objection to<br/>     11 form.<br/>     12 Q. Correct?<br/>     13 A. I've done some work, yes. The<br/>     14 pharmacy can change, though. I mean, you know.<br/>     15 Q. Right.<br/>     16 A. I'm very conservative on what I<br/>     17 set my thresholds at. Not everybody is set at<br/>     18 the same limit.<br/>     19 Q. If someone wanted to look at you<br/>     20 and you raised a threshold -- let's say you<br/>     21 raised a threshold and they want to ask you and<br/>     22 they want to say, "Hey, why did you do that?"<br/>     23 Do you have any supporting documentation?<br/>     24 You said -- you gave me a few</p> |

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| <p style="text-align: right;">Page 78</p> <p>1 reasons why you may do that. Do you have any<br/>     2 supporting documentation that shows why you<br/>     3 would have allowed that to happen?</p> <p>4 MR. CLARK: Objection to<br/>     5 form.</p> <p>6 Q. Other than the paperwork I think<br/>     7 that you said you make them fill out, right?</p> <p>8 MR. CLARK: Same objection.</p> <p>9 A. Uh-huh.</p> <p>10 Q. That's a "yes"? You just need to<br/>     11 verbalize the answer.</p> <p>12 A. Okay. Ask the question again.</p> <p>13 Q. The only documentation I recall<br/>     14 you saying that you get before you raise a<br/>     15 threshold, if I heard you correctly, is you make<br/>     16 them, you fax them, or you give them a document<br/>     17 for the increase and they need to fill it out,<br/>     18 the reason why they need an increase, correct?</p> <p>19 MR. CLARK: Objection to<br/>     20 form.</p> <p>21 A. That is a lot of it, yes.</p> <p>22 Q. And then if that satisfies you,<br/>     23 then you feel comfortable raising it, correct?</p> <p>24 MR. CLARK: Objection to</p> | <p style="text-align: right;">Page 80</p> <p>1 Q. Would that be alarming?<br/>     2 A. That would be very unusual.<br/>     3 Q. Yes, sir.</p> <p>4 THE VIDEOGRAPHER: We're<br/>     5 going off the record at 2:03.<br/>     6 (Recess taken.)</p> <p>7 THE VIDEOGRAPHER: We're back<br/>     8 on the record at 2:11.</p> <p>9 BY MR. REINS:</p> <p>10 Q. You discussed with us today about<br/>     11 the setting of the threshold limits and then the<br/>     12 elevating or raising of those limits.<br/>     13 Are there any policies and<br/>     14 procedures within PSI which provides some<br/>     15 guidance or parameters for doing either of those<br/>     16 tasks?</p> <p>17 MR. CLARK: Objection to<br/>     18 form.</p> <p>19 Q. That you've seen.</p> <p>20 A. No.</p> <p>21 Q. So not to oversimplify it, it<br/>     22 really comes down to your discretion, right?</p> <p>23 MR. CLARK: Objection to<br/>     24 form.</p>  |
| <p style="text-align: right;">Page 79</p> <p>1 form.</p> <p>2 A. Yes.</p> <p>3 Q. And then if they want to raise it<br/>     4 again in the same month, you're going to require<br/>     5 that document to be filled out again, right?</p> <p>6 MR. CLARK: Objection to<br/>     7 form.</p> <p>8 A. I've never had anybody ask me for<br/>     9 twice in the same month.</p> <p>10 Q. Okay. That would be alarming,<br/>     11 wouldn't it?</p> <p>12 MR. CLARK: Objection to<br/>     13 form.</p> <p>14 A. I -- no.</p> <p>15 Q. It would not be alarming?</p> <p>16 A. Not alarming.</p> <p>17 Q. Concerning?</p> <p>18 MR. CLARK: Objection to<br/>     19 form.</p> <p>20 A. I would ask a lot more questions,<br/>     21 yes.</p> <p>22 Q. How about if they asked you to do<br/>     23 it a third time?</p> <p>24 MR. CLARK: Same objection.</p>  | <p style="text-align: right;">Page 81</p> <p>1 A. Yes.</p> <p>2 Q. Based on the things you've already<br/>     3 talked to us about?</p> <p>4 MR. CLARK: Same objection.</p> <p>5 Q. The criteria you said?</p> <p>6 A. And my experience.</p> <p>7 Q. Yeah.</p> <p>8 I'm going to now show you a chart,<br/>     9 and this is a summary which we have created from<br/>     10 PSI600, which is transactional data that PSI has<br/>     11 produced to us. So we're going to look at that<br/>     12 real quick.</p> <p>13 MR. REINS: I have an extra<br/>     14 copy for you, but I'm going to have<br/>     15 to use it from the last deposition,<br/>     16 which I believe it was Number 6.<br/>     17 So the witness can have one.</p> <p>18 BY MR. REINS:</p> <p>19 Q. All right. So I tell you where it<br/>     20 comes from so that you understand where it comes<br/>     21 from, okay? So what we've done is we've<br/>     22 isolated some transactions in certain periods of<br/>     23 time. And if you zoom in to the top left there<br/>     24 column, there's a pharmacy.</p> |

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| 1        Are you familiar with this<br>2  pharmacy?<br>3        A. Yes.<br>4        Q. And you can see the screen in<br>5 front of you it may be helpful because this is<br>6 small.<br>7        A. Yes.<br>8        Q. Do you know when you started doing<br>9 work with them? Is it Kahler Pharmacy?<br>10      A. Kahler Pharmacy.<br>11      Q. My question is, do you know when<br>12 you started a relationship with them?<br>13      A. I believe it was in the 1980s.<br>14      Q. Okay. So a long time --<br>15      A. Maybe earlier. Correct.<br>16      Q. So a pharmacy you're pretty<br>17 familiar with?<br>18      A. Yes, sir.<br>19      Q. Okay. Because sometimes, in<br>20 fairness to you, and -- you know, you may set a<br>21 threshold and it's just a new customer and you<br>22 may not know kind of the traffic or the<br>23 business, right, that they may have?<br>24      MR. CLARK: Objection to | Page 82<br><br>1        this -- blowing it up will make it<br>2 easier for you.<br>3        But don't answer anything if<br>4 you can't read it, okay?<br>5        MR. CLARK: Just one other<br>6 clarification. Blowing it up makes<br>7 it easier to see different parts,<br>8 but when blown up, it's difficult<br>9 to see the document in its<br>10 entirety.<br>11      MR. REINS: I can't argue<br>12 with that.<br>13 BY MR. REINS:<br>14      Q. All right. So we've got -- but<br>15 you can reference, we've got -- obviously, this<br>16 is for -- the month of March is what I want to<br>17 focus on. We want to focus on Kahler Pharmacy.<br>18      Do you know this Walter or Jim,<br>19 the order takers?<br>20      A. Yes.<br>21      Q. Okay. You've known them, I guess,<br>22 for a long time?<br>23      A. I'm Jim.<br>24      Q. Oh, you're the order taker. Who's   |
| Page 83<br><br>1        form.<br>2        Q. Is that a yes? She just needs a<br>3 verbal answer.<br>4        A. Yes.<br>5        Q. All right. So when we look at<br>6 this one, we look at -- if you branch it out a<br>7 little bit. So we've got this particular<br>8 pharmacy. If you look at the dates --<br>9        MR. REINS: If you could<br>10 highlight just the March dates<br>11 there.<br>12 BY MR. REINS:<br>13      Q. All right. So we've got -- this<br>14 is, it looks like, March 5th through March 30th.<br>15      MR. CLARK: It's up here on<br>16 the screen. It's a little bit<br>17 easier.<br>18      MR. REINS: It may be easier.<br>19      MR. CLARK: I'm going to put<br>20 on the record that the hard-copy<br>21 document is difficult.<br>22      MR. REINS: It's super small.<br>23      I agree with you. But I have a<br>24 magnifying glass. But hopefully                                  | Page 85<br><br>1        Walter?<br>2        A. He's my -- he helps me in the<br>3 cage.<br>4        Q. Got it. Okay. So that means you<br>5 actually got the order when it says "Jim,"<br>6 right?<br>7        A. Correct. Yes.<br>8        Q. But we know that, based on your<br>9 position, all of the orders you review, correct?<br>10      A. Yes.<br>11      Q. And you're the only one that can<br>12 elevate the thresholds; is that right?<br>13      A. Yes.<br>14      Q. All right. So if we go over to<br>15 the right a little more, this is dealing with<br>16 oxycodone, and specifically, what is Endocet?<br>17      A. Endocet is the -- it's a generic<br>18 for Percocet. It's the same as the<br>19 oxycodone 10/325. It's just a different brand.<br>20      Q. Got it.<br>21            And then we've got varying<br>22 strengths over here. And then if we now go to<br>23 this side, we've got the size and number of<br>24 units and some information, and then if we keep |

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| <p>1 going, we've got the total units sold this month<br/>2 and the max units per month.<br/>3       The max units per month is the<br/>4 threshold, right?<br/>5       A. Uh-huh.<br/>6       Q. Yes?<br/>7       MR. CLARK: You've got to<br/>8 verbalize.<br/>9       Q. Say it out loud.<br/>10      A. Yes.<br/>11      Q. So it looks like at the beginning<br/>12 of the month, which would be March, there was a<br/>13 7,000 threshold, right, of pills?<br/>14      MR. CLARK: Objection to<br/>15 form.<br/>16      A. Yes.<br/>17      Q. All right. And they ordered<br/>18 6,100, no problem. But then in --<br/>19      MR. REINS: And I don't know<br/>20 if we can split-screen it and show<br/>21 the dates so he can see the dates<br/>22 along with it? Or maybe just that<br/>23 way, yeah.<br/>24</p>  | <p>1           MR. CLARK: Same objection.<br/>2       A. There was a reason.<br/>3       Q. There was a reason. And the<br/>4 reason should be -- there should be the due<br/>5 diligence of all the things you talked to me<br/>6 about, all the questions should have been asked,<br/>7 the form would have been filled out and refilled<br/>8 out regarding the questionnaire, correct?<br/>9           MR. CLARK: Objection to<br/>10 form.<br/>11      A. Can I tell you what this was?<br/>12      Q. Sure.<br/>13      A. Okay. I believe -- Brent Kahler<br/>14 passed away, okay, and this was owned by -- a<br/>15 new pharmacist purchased it, okay? So here was<br/>16 a new customer for whoever -- whatever<br/>17 wholesalers is going to be primary for. They<br/>18 would not allow him to buy this -- buy controls<br/>19 without establishing a relationship, okay?<br/>20           So at the time, he was not able to<br/>21 buy them from his primary. He turned to me to<br/>22 get his controlled substances. It's a very big<br/>23 pharmacy, had been around for years, and they do<br/>24 a lot of scripts a day.</p> |
| Page 87  | Page 89  |
| <p>1 BY MR. REINS:<br/>2       Q. So that's on March 5th, and then<br/>3 on March 7th, it looks like we got two orders,<br/>4 which got us to 12,000, correct?<br/>5       MR. CLARK: Objection to<br/>6 form.<br/>7       A. That's what it shows, yes.<br/>8       Q. All right. And assuming this is<br/>9 accurate, of course.<br/>10      So in response to that order, the<br/>11 threshold was raised from 7,000 to 12,000,<br/>12 correct?<br/>13      A. Yes.<br/>14      Q. And you would have obviously had<br/>15 to approve that?<br/>16      A. Yes.<br/>17      Q. All right. And I think you've<br/>18 told us pretty honestly here today there's not<br/>19 going to be documentation to support that, but<br/>20 obviously you felt it was okay.<br/>21      MR. CLARK: Objection to<br/>22 form.<br/>23      Q. Or you wouldn't have done it,<br/>24 right?</p> | <p>1       Q. You're going to need to just break<br/>2 it down so we can verify that, okay?<br/>3           First of all, you know this to be<br/>4 true?<br/>5       MR. CLARK: Objection to<br/>6 form.<br/>7       A. I spoke to the pharmacist.<br/>8       Q. Okay. So tell me -- I'm sorry.<br/>9 That was a little fast and I didn't quite get it<br/>10 all. So why don't we just baby-step what you<br/>11 just said.<br/>12           You said, After I know what this<br/>13 is. Say it, and I may interrupt you. What<br/>14 happened?<br/>15      MR. CLARK: Asked and<br/>16 answered.<br/>17           Go ahead.<br/>18      A. Okay.<br/>19      Q. So this -- let's start with the<br/>20 basics, which is this is -- this is -- this<br/>21 pharmacy, is it Kahler Pharmacy?<br/>22      A. Correct.<br/>23      Q. Is that a standing building?<br/>24      A. Yes.</p>   |

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| <p>1 Q. And where is it located? Oh,<br/>     2 we've got the address.</p> <p>3 A. Toledo, Ohio, on Airport Highway.</p> <p>4 Q. So this is a standalone pharmacy,<br/>     5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Which you've been dealing with<br/>     8 since the '80s?</p> <p>9 A. If not longer, yes.</p> <p>10 Q. If not longer.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And you're saying, "Here's<br/>     13 what happened," and then I just got lost. So a<br/>     14 little slower, if you don't mind.</p> <p>15 MR. CLARK: Objection. Asked<br/>     16 and answered.</p> <p>17 Q. I'm just trying to understand what<br/>     18 happened. I didn't understand what you were<br/>     19 saying.</p> <p>20 MR. CLARK: We could have the<br/>     21 court reporter read it back.</p> <p>22 Q. Well, I mean, did someone buy the<br/>     23 pharmacy, you said?</p> <p>24 MR. CLARK: Objection to</p>                               | <p>1 2012?</p> <p>2 A. Well, he passed away, so you know.</p> <p>3 Q. When did he pass away?</p> <p>4 A. I can't exactly remember.</p> <p>5 Q. Before this or at this time?</p> <p>6 MR. CLARK: Objection to<br/>     7 form.</p> <p>8 A. I can't remember that. I don't<br/>     9 know that answer.</p> <p>10 Q. Okay. So the gentleman -- the<br/>     11 pharmacist that owned it passed way, and you<br/>     12 don't know if that was in 2000 or 2010 or 2011?</p> <p>13 A. I can't recall what year.</p> <p>14 Q. Okay. All right. So he passed<br/>     15 away at some point in the last decade?</p> <p>16 MR. CLARK: Objection to<br/>     17 form.</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And then there was a new<br/>     20 owner of the pharmacy?</p> <p>21 A. Correct.</p> <p>22 Q. What is the name of the new owner?</p> <p>23 A. Nick. I'm not sure of the last<br/>     24 name.</p>                                  |
| Page 91   | Page 93  |
| <p>1 form. Go ahead.</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Someone bought the -- the<br/>     4 guy you've been dealing with's pharmacy since<br/>     5 the '80s, someone bought it in 2013?</p> <p>6 A. A pharmacist that was working<br/>     7 there, correct.</p> <p>8 Q. Bought it?</p> <p>9 A. Yeah. I don't know when he bought<br/>     10 it. It was in 2013, because this is 2012.</p> <p>11 Q. Okay. I'm sorry. 2012. So in<br/>     12 2012, there was a pharmacist that you dealt with<br/>     13 since the '80s before that?</p> <p>14 MR. CLARK: Objection to<br/>     15 form.</p> <p>16 A. There was a pharmacist that owned<br/>     17 that pharmacy, yes.</p> <p>18 Q. Okay. And what was his name or<br/>     19 her name?</p> <p>20 A. Brent Kahler.</p> <p>21 Q. Brent. Can you spell the last<br/>     22 name? Kahler is going to be --</p> <p>23 A. Same as the pharmacy.</p> <p>24 Q. Okay. Brent Kahler owned it until</p> | <p>1 Q. All right. So Nick -- whatever<br/>     2 last name -- buys the pharmacy, right? Yes?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. And you had established<br/>     5 these thresholds for Brent, right?</p> <p>6 MR. CLARK: Objection to<br/>     7 form.</p> <p>8 Q. When he owned it.</p> <p>9 A. I would assume he was part of it.</p> <p>10 Q. Well, I mean, you had -- there was<br/>     11 a threshold here at the beginning of the month<br/>     12 of 7,000. You had established that, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And you're saying, "Brent died so<br/>     15 we had a whole new business on our hands."</p> <p>16 Is that what you're saying?</p> <p>17 MR. CLARK: Objection to<br/>     18 form.</p> <p>19 A. No.</p> <p>20 Q. Okay.</p> <p>21 A. No. No. Brent died, okay? And<br/>     22 the pharmacist that has worked there for a while<br/>     23 bought the pharmacy, okay?</p> <p>24 Q. Okay.</p> |

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| <p>1        A. He -- he switched his primary<br/>     2 wholesaler to somebody else. They had no<br/>     3 history with him, sales history.<br/>     4        Q. I'm going to stop you because I<br/>     5 don't want -- if you don't mind, I'm just going<br/>     6 to stop so I can digest it.<br/>     7        A. Okay.<br/>     8        Q. So Nick, the new owner, along with<br/>     9 some other pharmacists, bought the place?<br/>     10      A. Nick bought the place.<br/>     11      Q. Nick bought the place?<br/>     12      A. I --<br/>     13            MR. CLARK: Let him ask the<br/>     14 question.<br/>     15      Q. All right. And they -- and they<br/>     16 had -- and you said the primary wholesaler --<br/>     17 which they wanted to deal with?<br/>     18      A. They switched primary wholesalers.<br/>     19      Q. Okay. And what happened?<br/>     20            MR. CLARK: Objection to<br/>     21 form.<br/>     22      A. So the new pharmacist -- you know,<br/>     23 the new primary wholesaler had no sales history<br/>     24 with that pharmacy or very little sales history.</p> | <p>1 during this time.<br/>     2        Q. Okay. So you went and spoke to<br/>     3 Nick. Is that -- did you know Nick before that,<br/>     4 or is that the first time you met him?<br/>     5        A. I've met him before, yes.<br/>     6        Q. Okay. Do you remember his last<br/>     7 name?<br/>     8        A. I think it's Tabb, T-a-b-b.<br/>     9        Q. All right. So the reason you go<br/>     10 meet him is why?<br/>     11            MR. CLARK: Objection. Form.<br/>     12      A. I went to see him to ask him about<br/>     13 the increases in his purchases, okay, and him<br/>     14 wanting more. That's why I went personally to<br/>     15 the pharmacy, to talk to him and get an<br/>     16 explanation --<br/>     17      Q. Okay.<br/>     18      A. -- for this reasoning.<br/>     19      Q. Okay. So the prior owner, Brent,<br/>     20 was he dealing with a wholesaler?<br/>     21      A. Yes. I was a secondary for them.<br/>     22      Q. Okay.<br/>     23      A. Okay.<br/>     24      Q. Do you know -- did you do your due</p> |
| <p>1        Q. Okay.<br/>     2        A. So they will not sell until they<br/>     3 get an establishment with that pharmacy over a<br/>     4 certain amount of controlled substances.<br/>     5        Q. Okay. So you filled it?<br/>     6            MR. CLARK: Objection to<br/>     7 form.<br/>     8        A. I was the one that filled,<br/>     9 correct, at that time.<br/>     10      Q. Do you know Nick?<br/>     11      A. Yes, I've met Nick. I've been to<br/>     12 this pharmacy numerous times.<br/>     13      Q. Okay. But before you -- before<br/>     14 this month of March, had you met Nick; do you<br/>     15 know?<br/>     16            MR. CLARK: Objection to<br/>     17 form.<br/>     18      A. Yes. I actually went to the<br/>     19 pharmacy and talked to Nick.<br/>     20      Q. Okay.<br/>     21      A. Okay, about this.<br/>     22      Q. And when did that happen; do you<br/>     23 know?<br/>     24      A. It would have been in March,</p>  | <p>1 diligence and find out how much Brent was<br/>     2 getting from the wholesaler versus what he was<br/>     3 getting from you?<br/>     4            MR. CLARK: Objection to<br/>     5 form.<br/>     6        A. I asked Nick what his purchases<br/>     7 were before, okay?<br/>     8        Q. Did you see any documentation to<br/>     9 support that?<br/>     10      A. It was patient information. I<br/>     11 couldn't see it.<br/>     12      Q. You could see the ordering sheets,<br/>     13 though, right, with the names redacted?<br/>     14            MR. CLARK: Objection to<br/>     15 form.<br/>     16      A. What do you mean, "ordering sheets<br/>     17 with names" --<br/>     18      Q. Well, I mean, you're saying<br/>     19 there's no way for you to verify that<br/>     20 information, what their prior orders were,<br/>     21 without seeing patients' names?<br/>     22            MR. CLARK: Objection to<br/>     23 form.<br/>     24      Q. You couldn't look at documents</p>  |

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| <p>1 like this?</p> <p>2 MR. CLARK: Objection to</p> <p>3 form.</p> <p>4 A. I couldn't fulfill them because I</p> <p>5 didn't have, you know, that history from them</p> <p>6 either, okay? I went on where they're located,</p> <p>7 okay, how many scripts they do a day, you know,</p> <p>8 how big they are.</p> <p>9 I've been dealing with them for</p> <p>10 years. There's no new pharmacies in the area.</p> <p>11 They were in a neighborhood.</p> <p>12 Q. The variable for you that you were</p> <p>13 sufficient with is this guy says to you, "The</p> <p>14 wholesaler won't deal with us because we're so</p> <p>15 new, we don't have a relationship. Will you</p> <p>16 provide all of our narcotics?"</p> <p>17 Is that right?</p> <p>18 MR. CLARK: Objection to</p> <p>19 form.</p> <p>20 A. He wanted me to -- he wanted me,</p> <p>21 yes, to provide, you know, certain narcotics for</p> <p>22 him, that's correct.</p> <p>23 Q. Other than what he told you, did</p> <p>24 you see any documentation or --</p> | <p>1 31,000 threshold; is that right?</p> <p>2 MR. CLARK: Objection to</p> <p>3 form.</p> <p>4 A. That was the conversation, yeah.</p> <p>5 It was helpful.</p> <p>6 Q. That's not my question. My</p> <p>7 question is, you went from a 7,000 threshold to</p> <p>8 a 33,000 threshold.</p> <p>9 MR. CLARK: Objection to</p> <p>10 form.</p> <p>11 Q. Right?</p> <p>12 A. That's what I --</p> <p>13 MR. CLARK: I think he's</p> <p>14 highlighting here. Just use that</p> <p>15 in the document.</p> <p>16 A. Yeah, yeah, that's correct.</p> <p>17 Q. Almost five times the amount of</p> <p>18 your initial threshold, right?</p> <p>19 A. Correct.</p> <p>20 Q. And that threshold was raised from</p> <p>21 7 to 12 to 18 to 22 to 25 to 26 to 29 to 33?</p> <p>22 A. Uh-huh.</p> <p>23 MR. CLARK: You've got to</p> <p>24 answer.</p>  |
| <p>1 A. I can't --</p> <p>2 MR. CLARK: Wait for his</p> <p>3 question.</p> <p>4 Q. -- is there anything else you did</p> <p>5 other than meet with him?</p> <p>6 MR. CLARK: Objection to</p> <p>7 form.</p> <p>8 Go ahead.</p> <p>9 A. I can't recall.</p> <p>10 Q. Any other proof of any sort that</p> <p>11 you can recall seeing other than meeting him at</p> <p>12 the store and him saying he needs you to supply</p> <p>13 him?</p> <p>14 MR. CLARK: Objection to</p> <p>15 form.</p> <p>16 A. I can't remember.</p> <p>17 Q. Did you call the wholesale</p> <p>18 retailer and verify that they wouldn't deal with</p> <p>19 him?</p> <p>20 MR. CLARK: Objection to</p> <p>21 form.</p> <p>22 A. No, but I've heard that before.</p> <p>23 Q. So based on that conversation with</p> <p>24 Nick, you went from a 7,000 threshold to a</p>  | <p>1 Q. Is that a yes?</p> <p>2 A. Yes.</p> <p>3 Q. Is that unusual?</p> <p>4 MR. CLARK: Objection to</p> <p>5 form.</p> <p>6 A. Not when I did my due diligence.</p> <p>7 Q. Tell me about your due diligence.</p> <p>8 Other than meeting with Nick and having a</p> <p>9 conversation with him, tell me what else you</p> <p>10 did.</p> <p>11 A. Well, I have a longstanding</p> <p>12 relationship with that pharmacy. It's a very</p> <p>13 big pharmacy. They do a lot of scripts.</p> <p>14 Q. No doubt.</p> <p>15 A. They've been around for years,</p> <p>16 have a good reputation.</p> <p>17 Q. But you didn't know Nick.</p> <p>18 MR. CLARK: Objection to</p> <p>19 form. Misstates his testimony.</p> <p>20 Q. Did you know Nick before that?</p> <p>21 A. I've met Nick before that, yes.</p> <p>22 Q. You didn't know him, though, did</p> <p>23 you?</p> <p>24 MR. CLARK: Objection to</p> |

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| <p>1        form.</p> <p>2        A. I've spoken to him on the phone</p> <p>3        too.</p> <p>4        Q. Anything else, sir, you can point</p> <p>5        to, to your quote/unquote "due diligence," other</p> <p>6        than speaking with Nick?</p> <p>7            MR. CLARK: Objection to</p> <p>8        form.</p> <p>9        A. Not that I can recall.</p> <p>10       Q. That's a hell of an increase,</p> <p>11      isn't it?</p> <p>12       MR. CLARK: Objection to</p> <p>13      form. Objection; argumentative.</p> <p>14       Q. That is one heck of an increase,</p> <p>15      isn't it, sir?</p> <p>16       MR. CLARK: Same objection.</p> <p>17       A. That's an increase, yes.</p> <p>18       Q. All right. And, again, in the</p> <p>19      family of PSI, you can do this on your own</p> <p>20      without any procedures and any oversight of</p> <p>21      anybody else being involved, right?</p> <p>22       MR. CLARK: Objection to</p> <p>23      form.</p> <p>24       A. I do discuss these with my father,</p> | <p>1        Well, before we do that, you</p> <p>2        understand we talked in the very beginning of</p> <p>3        this deposition about you don't want to ship a</p> <p>4        suspicious order.</p> <p>5            Are you aware -- is there any</p> <p>6        policy or procedure regarding when an order</p> <p>7        should not be shipped? Is there a policy on</p> <p>8        that?</p> <p>9        A. Yes.</p> <p>10       Q. There is? What is it called?</p> <p>11       MR. CLARK: Objection to</p> <p>12      form.</p> <p>13       A. It's -- I don't know what it's</p> <p>14      called, you know.</p> <p>15       Q. Let me --</p> <p>16       MR. CLARK: Were you done</p> <p>17      answering?</p> <p>18       MR. REINS: I think he was</p> <p>19      done.</p> <p>20       THE WITNESS: Yes.</p> <p>21       BY MR. REINS</p> <p>22       Q. Let's look at this one, and this</p> <p>23      may be what you're talking about. Again, I'm</p> <p>24      not here to trick you or anything.</p>  |
| <p>1        Tom.</p> <p>2        Q. Do you remember discussing it with</p> <p>3        him?</p> <p>4        MR. CLARK: Objection to</p> <p>5        form.</p> <p>6        A. I cannot recall that, no.</p> <p>7        Q. You and I can agree on one thing:</p> <p>8        That's a heck of a lot of Oxy for that</p> <p>9        community, right?</p> <p>10       MR. CLARK: Objection to</p> <p>11      form.</p> <p>12       Q. I'll rephrase.</p> <p>13       So if I wanted any documentation</p> <p>14      to support this decision-making by you, there</p> <p>15      wouldn't be any, right?</p> <p>16       MR. CLARK: Objection to</p> <p>17      form.</p> <p>18       A. I -- I just can't recall.</p> <p>19       Q. Okay.</p> <p>20       A. I know I went to the store to talk</p> <p>21      to him, spoke to him on the phone a few times.</p> <p>22       Q. All right. Moving along. Let's</p> <p>23      go back to the policy dealing with inventory</p> <p>24      controls.</p>   | <p>1        The inventory control one, let's</p> <p>2        go to -- this is going to be PSI86 on that</p> <p>3        document, on the bottom there. It says, "IT</p> <p>4        manager shall be responsible for running</p> <p>5        suspicious order monitoring reports."</p> <p>6        We've covered that, right?</p> <p>7        "Automatically sending all reports</p> <p>8        to DEA and governing state agencies as required.</p> <p>9        He or she shall share the information with the</p> <p>10      DR/DR supervisor each month."</p> <p>11       That was Candace and your dad,</p> <p>12      right?</p> <p>13       A. Correct.</p> <p>14       Q. "IT manager shall stay current of</p> <p>15      changing regulations and requirements for</p> <p>16      reporting and system adjustments to meet these</p> <p>17      requirements. Our suspicious ordering system</p> <p>18      prevents Prescription Supply, Inc. from shipping</p> <p>19      a suspicious order or an excessive order if a</p> <p>20      customer exceeds a present limit in eight</p> <p>21      specific families of drugs."</p> <p>22       So is that telling us that back in</p> <p>23      2000, when this policy was created, that if</p> <p>24      somebody ordered or sought to order an exceed of</p> |

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| <p>1 their threshold, that the order would be stopped<br/>     2 from shipping?</p> <p>3 MR. CLARK: Objection to<br/>     4 form.</p> <p>5 Q. Let me rephrase it.</p> <p>6 What does that mean, "Our<br/>     7 suspicious ordering system prevents Prescription<br/>     8 Supply, Inc. from shipping a suspicious order or<br/>     9 an excessive order if a customer exceeds a<br/>     10 present limit in eight specific families of<br/>     11 drugs."</p> <p>12 What do you understand that to<br/>     13 mean?</p> <p>14 A. Okay. So that would not have been<br/>     15 2000.</p> <p>16 Q. Yeah.</p> <p>17 A. There would have been a revision<br/>     18 on this.</p> <p>19 Q. Nope. If you look on the front<br/>     20 page there -- I can't make this stuff up -- June<br/>     21 of 2000 is the effective date.</p> <p>22 A. But there were revision dates too.</p> <p>23 Q. Oh, do you believe this was not<br/>     24 the policy back when it was started?</p> | <p>1 Q. Which did the automatic stop when<br/>     2 someone tried to order more than their<br/>     3 threshold, right?</p> <p>4 A. Correct.</p> <p>5 Q. However, that's where you come<br/>     6 back in. If they try to order more than the<br/>     7 threshold, you have the ability -- you alone is<br/>     8 my understanding -- to raise that threshold like<br/>     9 you did for that pharmacy, right?</p> <p>10 MR. CLARK: Objection to<br/>     11 form.</p> <p>12 A. For Kahler, yes.</p> <p>13 Q. Yeah.</p> <p>14 A. That is my responsibility.</p> <p>15 Q. So here's what I want to know, if<br/>     16 you know. My understanding is there's a log, a<br/>     17 log created when someone tries to order more<br/>     18 than their threshold.</p> <p>19 Do you understand that?</p> <p>20 MR. CLARK: Objection to<br/>     21 form.</p> <p>22 A. There is a log, yes.</p> <p>23 Q. And then do you get -- after 2008,<br/>     24 would you get something pop up on your screen or</p>  |
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| <p>1 A. That, I don't know. But there<br/>     2 were revisions to this.</p> <p>3 Q. I'm not arguing with you, and<br/>     4 that's a fair point.</p> <p>5 Is it your testimony you<br/>     6 believe -- you just said it wasn't this way in<br/>     7 2000. You believe that policy was enacted in<br/>     8 2008?</p> <p>9 A. Okay.</p> <p>10 MR. CLARK: Objection to<br/>     11 form.</p> <p>12 A. Well, the eight families would<br/>     13 have been in 2008.</p> <p>14 Q. Got it. That's helpful.</p> <p>15 So that addition or that revision<br/>     16 would have been added to this policy, to the<br/>     17 best of your knowledge and belief, in 2008,<br/>     18 then?</p> <p>19 A. From what I see.</p> <p>20 Q. All right. Then that makes it a<br/>     21 little bit easier, the transitional question,<br/>     22 because that's when you established your<br/>     23 threshold system, correct?</p> <p>24 A. Correct.</p>                                | <p>1 an e-mail letting you know someone tried to do<br/>     2 that?</p> <p>3 MR. CLARK: Objection to<br/>     4 form.</p> <p>5 A. What do you mean?</p> <p>6 Q. I'm just wondering if you're<br/>     7 notified somehow, like a notification pops up,<br/>     8 "Hey, Kahler wants another 10,000 pills"? Like<br/>     9 do you get a pop-up or something?</p> <p>10 A. Yeah.</p> <p>11 MR. CLARK: Objection to<br/>     12 form.</p> <p>13 A. Yeah. It's on an ordering screen.</p> <p>14 Q. Okay.</p> <p>15 A. Like every C-II is stopped, okay?</p> <p>16 So on our ordering screen, if somebody is trying<br/>     17 to order more than what I have established with<br/>     18 this threshold, okay, it will -- let's say they<br/>     19 tried to order five bottles, okay? The<br/>     20 threshold is 4,900, okay, and they tried to<br/>     21 order five bottles of 100 count. They're only<br/>     22 allowed to order one, okay, because that would<br/>     23 meet the threshold. Underneath that would be an<br/>     24 "M," which would identify that as a threshold</p> |

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| <p>1 was met. So, yes, I do see that.</p> <p>2 Q. And then is your process then the<br/>3 same in order to decide whether you're going to<br/>4 let that go through or not?</p> <p>5 MR. CLARK: Objection to<br/>6 form.</p> <p>7 Q. We talked about raising thresholds<br/>8 and what your criteria is. I'm not here to make<br/>9 you say it for a third time.</p> <p>10 Would your process when that hits<br/>11 your screen be the same as what you've described<br/>12 to me before, on whether you don't ship it, on<br/>13 whether you report it, or on whether you fulfill<br/>14 or allow it to go through?</p> <p>15 MR. CLARK: Objection to<br/>16 form.</p> <p>17 A. What I do is I'll look in the<br/>18 sales history. I'll do my due diligence on the<br/>19 customer. Okay. I'll look at sales history,<br/>20 see if he purchases that particular product,<br/>21 okay.</p> <p>22 There's different forms of<br/>23 oxycodone with different -- you know, there's<br/>24 some with acetaminophen, some with ibuprofen, a</p> | <p>1 MR. CLARK: Let him finish<br/>2 his question. Let me get my<br/>3 objection. Objection to form.<br/>4 Go ahead.</p> <p>5 Q. So you give him a call. You get<br/>6 them to complete the form, why they want an<br/>7 increase. You look at their sales history.<br/>8 Anything else that qualifies as<br/>9 your due diligence, so to speak?</p> <p>10 MR. CLARK: Objection to<br/>11 form.</p> <p>12 A. Yes. I also would go back and<br/>13 look at their questionnaire.</p> <p>14 Q. The initial questionnaire?</p> <p>15 A. Correct.</p> <p>16 Q. Right, because you initially set a<br/>17 threshold, right, so you want to see what they<br/>18 put initially, right?</p> <p>19 A. I want to see what they put on<br/>20 that form that says how many they dispense per<br/>21 month.</p> <p>22 Q. Anything else you do other than<br/>23 that?</p> <p>24 MR. CLARK: Objection to</p>  |
| <p style="text-align: center;">Page 111</p> <p>1 bunch of different forms, okay? So I look at<br/>2 sales history, find out what he's been buying,<br/>3 okay? And, you know, that's -- I call him and<br/>4 do my due diligence.</p> <p>5 Q. Due diligence is kind of that word<br/>6 that's kind of a loaded word. So other than<br/>7 calling and looking at sales history, is there<br/>8 anything else you do?</p> <p>9 MR. CLARK: Objection to<br/>10 form.</p> <p>11 A. Well, I do the paperwork, okay.</p> <p>12 Q. What does that mean?</p> <p>13 A. The increased, you know, sales,<br/>14 you know, request.</p> <p>15 Q. You send them the form which they<br/>16 complete, identifying why they want an increase?</p> <p>17 A. That's -- yes, part of it, yes.</p> <p>18 Q. Part of it?</p> <p>19 A. Yeah.</p> <p>20 Q. The other part of it is you talk<br/>21 to them or -- do you talk to everybody in that<br/>22 situation or do you talk to --</p> <p>23 A. Yes, I do.</p> <p>24 Q. Okay.</p>                              | <p style="text-align: center;">Page 113</p> <p>1 form.</p> <p>2 A. I -- there's just all kinds of<br/>3 stuff that -- I don't know. There is.</p> <p>4 Q. They're what?</p> <p>5 A. There is stuff I do, yes.</p> <p>6 Q. Tell me. This is my one chance.</p> <p>7 A. Okay. So like I said, I look at<br/>8 the questionnaire. If it says they dispense<br/>9 12,000 a month, okay, that doesn't mean I set<br/>10 the threshold at 12,000. I could set the<br/>11 threshold at 4,000. Just because they dispense<br/>12 that much a month doesn't mean they're going to<br/>13 purchase all that from me, okay? I also look to<br/>14 see the percentage of non-controls to controlled<br/>15 substances they're buying.</p> <p>16 Q. That's on the questionnaire?</p> <p>17 A. Yes. And I look it up in sales<br/>18 history too. There's a graph that I can look<br/>19 at, okay, that tells me -- like a piechart that<br/>20 tell me what the percentages of non-controls and<br/>21 controls is.</p> <p>22 Plus I can go back and look at<br/>23 every order individually for that customer, go<br/>24 back two, three months, and I can look at every</p> |

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| <p>1 single order they've ordered, comparing</p> <p>2 non-controlled to controls --</p> <p>3 Q. Got it.</p> <p>4 A. -- what their pattern is, what</p> <p>5 type of medications they buy, okay. There's a</p> <p>6 really lot involved.</p> <p>7 Q. It sounds like it.</p> <p>8 And then are there times where you</p> <p>9 have not increased the threshold?</p> <p>10 A. Yes.</p> <p>11 Q. If I wanted to verify that, no</p> <p>12 offense, how would I verify that?</p> <p>13 MR. CLARK: Objection to</p> <p>14 form.</p> <p>15 Q. I think I know. The log</p> <p>16 information which shows that they attempted and</p> <p>17 then the sales history to see that you shut it</p> <p>18 down, right?</p> <p>19 MR. CLARK: Objection to</p> <p>20 form.</p> <p>21 A. As far as I know, that's the way</p> <p>22 to tell, yes.</p> <p>23 Q. In fairness, though, that's the</p> <p>24 only way I think I could be able to tell, right?</p> | <p>1 A. Zero.</p> <p>2 Q. Zero. All right.</p> <p>3 Now, when we were talking about</p> <p>4 policies, we looked at that part -- and I</p> <p>5 appreciate that. That was on PSI86. You said,</p> <p>6 "Look, this is something that we revised."</p> <p>7 Is this what you meant by the</p> <p>8 policy on dealing with shipments when I asked</p> <p>9 you about that earlier, that revision in there?</p> <p>10 MR. CLARK: Objection to</p> <p>11 form.</p> <p>12 A. For the families?</p> <p>13 Q. Yes, sir. You said there is a</p> <p>14 policy on stopping shipments and we went through</p> <p>15 that paragraph, if you remember, this one right</p> <p>16 here (indicating).</p> <p>17 Is that what you recall the policy</p> <p>18 being?</p> <p>19 A. That would be part of it.</p> <p>20 Q. Moving back for one moment. Since</p> <p>21 2013, I know you said you can't remember the</p> <p>22 number, but when somebody gives you their</p> <p>23 explanations and you decided -- you said, "You</p> <p>24 know what? I'm not going to increase your</p> |
| Page 115   | Page 117   |
| <p>1 MR. CLARK: Same objection.</p> <p>2 A. Yes.</p> <p>3 Q. Yeah?</p> <p>4 A. Yeah.</p> <p>5 Q. All right. Sitting here today,</p> <p>6 can you testify under oath that you recall how</p> <p>7 many times you refused to raise a threshold</p> <p>8 since 2008?</p> <p>9 MR. CLARK: Objection to</p> <p>10 form.</p> <p>11 Q. If you know.</p> <p>12 A. I have no idea.</p> <p>13 Q. Got it.</p> <p>14 Can you tell me -- now, let's say</p> <p>15 you do that analysis, okay, and then you go --</p> <p>16 well, let's just say this: You do that</p> <p>17 analysis. When if ever -- because after 2013</p> <p>18 you all stopped sending those forms monthly.</p> <p>19 So when, if ever, after 2013, when</p> <p>20 those forms stopped, would you report a</p> <p>21 quote/unquote "suspicious order"? Since then,</p> <p>22 how many times?</p> <p>23 MR. CLARK: Objection to</p> <p>24 form.</p>                                    | <p>1 threshold."</p> <p>2 Have you done that at all?</p> <p>3 A. I'm sure I have, yes.</p> <p>4 Q. Do you recall ever doing that? I</p> <p>5 don't want you to guess, but can you testify</p> <p>6 here today under oath that you have a</p> <p>7 recollection of doing that?</p> <p>8 MR. CLARK: Objection to</p> <p>9 form.</p> <p>10 A. I -- I don't -- I really don't</p> <p>11 know.</p> <p>12 Q. Okay. That's okay.</p> <p>13 Hypothetically, if you did refuse</p> <p>14 to raise the threshold because you weren't</p> <p>15 satisfied, can you and I agree that would be, by</p> <p>16 definition, a suspicious order?</p> <p>17 MR. CLARK: Objection to</p> <p>18 form. Objection; calls for</p> <p>19 speculation.</p> <p>20 A. Okay. So there are reasons that I</p> <p>21 would not, okay, increase somebody, okay?</p> <p>22 Q. Okay.</p> <p>23 A. And my thresholds are set very</p> <p>24 conservatively, all right? I might not have a</p>  |

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| <p style="text-align: right;">Page 118</p> <p>1 good enough establishment with that customer,<br/>2 okay, where I'm just not comfortable. Until I'm<br/>3 comfortable with that customer, I will not<br/>4 change a threshold, all right?<br/>5 And that would deal with sales<br/>6 history, the percentage of non-controls to<br/>7 controls they buy, what particular controls<br/>8 they're buying, what particular item they're<br/>9 buying, and what particular item they want,<br/>10 okay?</p> <p>11 A suspicious order would not have<br/>12 to hit a threshold to be suspicious to me, you<br/>13 know.</p> <p>14 Q. You said you have to be<br/>15 comfortable?</p> <p>16 A. Yes.</p> <p>17 Q. You were comfortable with Nick<br/>18 when you went from 7,000 to 31,000 in less than<br/>19 three weeks?</p> <p>20 A. Yes.</p> <p>21 MR. CLARK: Objection to<br/>22 form.</p> <p>23 Q. All right.</p> <p>24 A. At least comfortable with that</p>   | <p style="text-align: right;">Page 120</p> <p>1 substances.<br/>2 "The regulation also requires that<br/>3 the registrant inform the local DEA division<br/>4 office of suspicious orders when discovered by<br/>5 the registrant."<br/>6 Is that what you understand the<br/>7 rules to include?</p> <p>8 MR. CLARK: Objection to<br/>9 form.</p> <p>10 Q. That when you get a suspicious<br/>11 order, you should let them know when you receive<br/>12 it, correct?</p> <p>13 MR. CLARK: Objection to<br/>14 form.</p> <p>15 A. I've heard different things with<br/>16 that from DEA.</p> <p>17 Q. You have?</p> <p>18 A. Yes.</p> <p>19 Q. What else have you heard?</p> <p>20 A. I went to a wholesaler -- DEA<br/>21 wholesaler meeting -- I believe it was in<br/>22 Indianapolis -- where the DEA has<br/>23 representatives there and they talk to the<br/>24 wholesalers and keep us updated on the laws and</p>   |
| <p style="text-align: right;">Page 119</p> <p>1 pharmacy, yes.</p> <p>2 Q. Sure. All right. We're going to<br/>3 talk about another DEA letter.</p> <p>4 All right. And this is after the<br/>5 other one. This is going to be PSI<br/>6 30(b)-301-001. This is dated December 27th,<br/>7 2007. Again, this letter was sent to all the<br/>8 distributors.</p> <p>9 It says, "This letter is being<br/>10 sent to every entity in the United States<br/>11 registered with the Drug Enforcement<br/>12 Administration, DEA, to manufacture or<br/>13 distribute controlled substances.</p> <p>14 "The purpose of this letter is to<br/>15 reiterate the responsibilities of the controlled<br/>16 substance manufacturers and distributors to<br/>17 inform DEA of suspicious orders in accordance<br/>18 with 21 C.F.R. 1301.74(b).</p> <p>19 "In addition to and not in lieu of<br/>20 the general requirement of 21 USC 23 that<br/>21 managers and distributors maintain effective<br/>22 controls against diversion, DEA regulations<br/>23 require all manufacturers and distributors to<br/>24 report suspicious orders of controlled</p> | <p style="text-align: right;">Page 121</p> <p>1 regulations.</p> <p>2 One of the attorneys that works<br/>3 for DEA had said that do our due diligence first<br/>4 and then, you know, make that judgment. So she<br/>5 was an attorney that worked for DEA.</p> <p>6 Q. "Make that judgment," meaning<br/>7 what?</p> <p>8 A. On if it's a suspicious order or<br/>9 not.</p> <p>10 Q. Okay. And if you think it's a<br/>11 suspicious order, you should report it<br/>12 immediately, correct?</p> <p>13 A. Yes.</p> <p>14 MR. CLARK: Objection to<br/>15 form.</p> <p>16 Q. Okay. All right.</p> <p>17 "Filing a monthly report of<br/>18 completed transactions ergo excessive purchase<br/>19 report or high unit purchases does not meet the<br/>20 regulatory requirement to report suspicious<br/>21 orders."</p> <p>22 Sitting here today, you're aware<br/>23 that the reporting you guys did from 2000 -- I'm<br/>24 sorry -- from 1997 to 2013, that that monthly</p> |

| Page 122  | Page 124  |
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| <p>1 report that Kirk did, that was after those had<br/>     2 all been shipped; you're aware of that, right?<br/>     3 MR. CLARK: Objection to<br/>     4 form.<br/>     5 A. Yes, on the report, correct.<br/>     6 Q. "Registrants are reminded that<br/>     7 their responsibility does not end merely with<br/>     8 the filing of a suspicious order report.<br/>     9 Registrants must conduct an independent analysis<br/>     10 of suspicious orders prior to completing a sale<br/>     11 to determine whether the controlled substances<br/>     12 are likely to be diverted from legitimate<br/>     13 channels."<br/>     14 Sitting here today, do you know if<br/>     15 you ever stopped a shipment because you thought<br/>     16 it was suspicious?</p> <p>17 MR. CLARK: Objection to<br/>     18 form.</p> <p>19 A. So -- I've never shipped a<br/>     20 suspicious order.</p> <p>21 Q. I asked you a little bit<br/>     22 differently, which is, have you ever stopped a<br/>     23 shipment that you thought was suspicious?</p> <p>24 MR. CLARK: Objection to</p> | <p>1 Q. Just that you acknowledge that<br/>     2 they're there?<br/>     3 MR. CLARK: Same objection.<br/>     4 A. They always give me this form and<br/>     5 I always sign it, okay, when they come in, all<br/>     6 right.<br/>     7 Q. Okay.<br/>     8 A. You know, I have no reason not to<br/>     9 sign it. They're there for an inspection. I'm<br/>     10 fine with that.<br/>     11 Q. Okay.<br/>     12 A. I'm not sure why they give you<br/>     13 this paper. I'm not with DEA.<br/>     14 Q. Fair enough. Can I see it back if<br/>     15 you don't mind. We'll just mark that.</p> <p>16 - - -</p> <p>17 (PSI - J. Schoen Exhibit 1 marked.)</p> <p>18 - - -</p> <p>19 Q. Do you remember a Thomas Ohliger,<br/>     20 I guess, a pharmacist?<br/>     21 A. Ohliger Pharmacy, yes.<br/>     22 Q. Yeah. Do you remember the<br/>     23 situation with him?</p> <p>24 MR. CLARK: Objection to</p>                                    |
| Page 123  | Page 125  |
| <p>1 form.<br/>     2 A. Have I ever stopped a shipment<br/>     3 that I thought was suspicious?<br/>     4 Q. Yeah.<br/>     5 A. No.<br/>     6 Q. Okay. All right. I'll take that<br/>     7 back from you.<br/>     8 I've got a document here, and I'm<br/>     9 sorry, I don't have extra copies. I just don't<br/>     10 know what it is. We'll make it Plaintiffs'<br/>     11 Exhibit Number 1, I guess. I haven't been<br/>     12 marking a bunch because we've used the same<br/>     13 documents.<br/>     14 So I'll show it to your attorney<br/>     15 first, if you don't mind, and then I'm just<br/>     16 going to have you identify what that is.<br/>     17 A. It's a DEA inspection.<br/>     18 Q. Okay. And you're signing off that<br/>     19 you're aware that there's an inspection, I<br/>     20 guess, in the building? Strike that.<br/>     21 What is the purpose of this form,<br/>     22 if you know?<br/>     23 MR. CLARK: Objection to<br/>     24 form.</p>  | <p>1 form.<br/>     2 A. Yes.<br/>     3 Q. Tell me what you recall.<br/>     4 A. He was a customer of ours, okay.<br/>     5 I believe the State -- State Board of Pharmacy<br/>     6 came into his pharmacy and there was an<br/>     7 argument. I guess he hit the guy. That's what<br/>     8 I've heard.<br/>     9 Q. Okay. Do you remember the issue<br/>     10 was a laptop, stealing a laptop?<br/>     11 MR. CLARK: Objection to<br/>     12 form.<br/>     13 A. I don't really know.<br/>     14 Q. Was that someone that you were<br/>     15 familiar with? I know you had personal<br/>     16 relationships. Was he someone you had a<br/>     17 personal relationship with?<br/>     18 A. I've probably spoken to him on the<br/>     19 phone.<br/>     20 Q. Okay. Now, you were investigated<br/>     21 by the Ohio Pharmacy Board. Do you remember<br/>     22 that in 2017?<br/>     23 MR. CLARK: Objection to<br/>     24 form.</p> |

| Page 126   | Page 128   |
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| <p>1       A. It was an inspection.<br/>     2       Q. Inspection?<br/>     3       A. Yes.<br/>     4       Q. And --<br/>     5       A. Yes, I do remember that.<br/>     6       Q. And there was an inspection and<br/>     7      then you guys had to fill out a written<br/>     8      response.<br/>     9           Do you recall that?<br/>     10      A. Yes.<br/>     11      Q. Okay. You can't give these back.<br/>     12           (Discussion held off the record.)<br/>     13      Q. All right. So we're looking at<br/>     14     this document. Were you involved in the<br/>     15     completion of this?<br/>     16      A. Yes.<br/>     17      Q. Okay. Tell me what you -- before<br/>     18     we talk about the nuts and bolts of it, tell me<br/>     19     what you recall about this.<br/>     20           MR. CLARK: Objection; form.<br/>     21      A. Okay. So the State Board of<br/>     22     Pharmacy came to do an inspection, okay?<br/>     23      Q. Yes.<br/>     24      A. They completed their inspection.</p>  | <p>1           It says, "Observation 1: An<br/>     2     inspection was performed by agents with the Ohio<br/>     3     State Board of Pharmacy on May 22nd, 2017.<br/>     4     During that inspection, agents asked a<br/>     5     Prescription Supply representative for their<br/>     6     policies and procedures on reporting suspicious<br/>     7     orders to the Ohio State Board of Pharmacy.<br/>     8           "Prescription Supply provided the<br/>     9     agents the following suspicious order monitoring<br/>     10    statement and retail pharmacy questionnaire<br/>     11    2016. However, Prescription Supply has not<br/>     12    reported a suspicious drug order to the Ohio<br/>     13    State Board of Pharmacy during at least the<br/>     14    years of 2014, '15, '16, and '17."<br/>     15           Corresponds with your memory,<br/>     16     right?<br/>     17      A. Yes.<br/>     18      Q. "Therefore, it appears that<br/>     19     Prescription Supply does not have a suspicious<br/>     20     order reporting process compliant with<br/>     21     Rule 4729-9-16(H)(1)(e)(i), which states in<br/>     22     part: Wholesale drug distributors shall<br/>     23     establish and maintain inventories and records<br/>     24     of all transactions regarding the receipt and</p> |
| <p>1       They left. I believe a couple months later they<br/>     2       wanted to ask some additional questions. I<br/>     3       believe they e-mailed this to us to ask us some<br/>     4       additional questions on some customers we had.<br/>     5       Q. Okay.<br/>     6       A. So we completed this and sent it<br/>     7       back to them.<br/>     8       Q. All right. Do you remember the --<br/>     9       do you remember the gist of the allegations?<br/>     10          MR. CLARK: Objection to<br/>     11       form.<br/>     12          Q. Let's go through it. If you don't<br/>     13       mind, we'll look at the -- I believe it's -- so<br/>     14       this is PSI Number 9, which is the third page of<br/>     15       the document?<br/>     16          A. Okay. I don't believe they were<br/>     17       allegations. What I believe is they just wanted<br/>     18       to make sure I was doing my due diligence with<br/>     19       my customers.<br/>     20          Q. Gotcha.<br/>     21           So it says, "The facility has a<br/>     22       system in place to identify and report<br/>     23       suspicious orders for drugs to the Ohio State<br/>     24       Board of Pharmacy. Written response required."</p> | <p>1       distribution or other disposition of dangerous<br/>     2       drugs. These records shall include but shall<br/>     3       not be limited to the following information: A<br/>     4       system shall be designed and operated to<br/>     5       disclose orders for controlled substances and<br/>     6       other dangerous drugs subject to abuse.<br/>     7       Wholesalers shall inform the State Board of<br/>     8       Pharmacy of suspicious orders for drugs when<br/>     9       discovered. Suspicious orders are those which<br/>     10      in relation to the wholesaler's records as a<br/>     11      whole are of unusual size, unusual frequency, or<br/>     12      deviate substantially from established buying<br/>     13      patterns."<br/>     14          Let me ask you. If you report one<br/>     15      of your customers for attempting a suspicious<br/>     16      order, do you think they'll like that?<br/>     17          MR. CLARK: Objection to<br/>     18       form.<br/>     19          A. If they're attempting a suspicious<br/>     20       order?<br/>     21          Q. Yeah. Do you think they'll<br/>     22       appreciate if you report them, one of your<br/>     23       customers?<br/>     24          MR. CLARK: Objection to</p>                                  |

| Page 130  | Page 132   |
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| <p>1        form.</p> <p>2        A. It doesn't really matter to me if</p> <p>3 they're happy with it or not.</p> <p>4        Q. Got it. It could affect your</p> <p>5 business, though, right?</p> <p>6        MR. CLARK: Objection to</p> <p>7 form.</p> <p>8        A. If it's a bad customer, somebody</p> <p>9 is doing somebody wrong, I don't want them as a</p> <p>10 customer.</p> <p>11      Q. But you haven't lost any business</p> <p>12 for reporting a suspicious order because you've</p> <p>13 never reported any, right?</p> <p>14      MR. CLARK: Objection to</p> <p>15 form.</p> <p>16      A. I haven't reported any suspicious</p> <p>17 orders.</p> <p>18      Q. So you haven't lost business over</p> <p>19 that reporting?</p> <p>20      MR. CLARK: Were you done</p> <p>21 answering?</p> <p>22      THE WITNESS: Yes.</p> <p>23      Q. So you've never lost a customer</p> <p>24 because you reported them, obviously?</p> | <p>1        Q. Do you remember, did you talk --</p> <p>2 did you report that one?</p> <p>3        A. I would assume, yes. It was on</p> <p>4 Tussionex.</p> <p>5        Q. Do you remember reporting it?</p> <p>6        A. Yes. Yeah, it was on Tussionex,</p> <p>7 yeah.</p> <p>8        Q. It was on Tussionex?</p> <p>9        A. Yes. I may have just called. I'm</p> <p>10 not sure, though. But it was an issue with</p> <p>11 Tussionex.</p> <p>12      Q. Is that the only one you ever</p> <p>13 remember reporting?</p> <p>14      MR. CLARK: Objection to</p> <p>15 form.</p> <p>16      A. That I can recall.</p> <p>17      Q. Okay. And you've been doing this</p> <p>18 for how many years?</p> <p>19      A. Right around 20.</p> <p>20      Q. Twenty.</p> <p>21      What is Tussionex?</p> <p>22      A. It's a -- I believe it's used for</p> <p>23 colds. It has hydrocodone in it.</p> <p>24      Q. Gotcha.</p>  |
| Page 131  | Page 133   |
| <p>1        MR. CLARK: Objection to</p> <p>2 form.</p> <p>3        A. I've never had anybody with a</p> <p>4 suspicious order, though.</p> <p>5        Q. Right. No, I'm with you. In your</p> <p>6 whole career?</p> <p>7        MR. CLARK: Objection to</p> <p>8 form.</p> <p>9        A. I wouldn't say in my whole career,</p> <p>10 no.</p> <p>11      Q. Have you ever?</p> <p>12      A. Yes.</p> <p>13      Q. When?</p> <p>14      A. A long time ago.</p> <p>15      Q. How many years ago?</p> <p>16      MR. CLARK: Objection to</p> <p>17 form.</p> <p>18      A. I'm not sure.</p> <p>19      Q. Like in the '70s or '80s?</p> <p>20      MR. CLARK: Objection to</p> <p>21 form.</p> <p>22      A. No.</p> <p>23      Q. 2000s?</p> <p>24      A. Good possibility, yes.</p>   | <p>1        A. It was a Class III at the time.</p> <p>2        Q. What was it about that one time</p> <p>3 that set you off?</p> <p>4        MR. CLARK: Objection to</p> <p>5 form.</p> <p>6        A. Somebody was ordering it that, as</p> <p>7 far as I can recall, was ordering more than I</p> <p>8 usually see from anyone else.</p> <p>9        Q. Okay. Do you know who that</p> <p>10 pharmacy was?</p> <p>11      A. No idea. I can't recall.</p> <p>12      Q. You don't remember how long ago,</p> <p>13 but it was some time ago?</p> <p>14      A. Correct.</p> <p>15      Q. On the second page, at the top, it</p> <p>16 says, "A subsequent review of wholesale data</p> <p>17 reported to the Ohio State Board of Pharmacy for</p> <p>18 drugs containing oxycodone 10 milligrams and</p> <p>19 oxycodone 30 milligrams indicated many sales</p> <p>20 appeared to be of unusual size, unusual</p> <p>21 frequency, or that deviate substantially from</p> <p>22 established buying patterns, but were not</p> <p>23 reported to the Board of Pharmacy as suspicious</p> <p>24 orders. Specifically, we observed spikes in</p> |

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| <p style="text-align: right;">Page 134</p> <p>1 sales for specific months and sales that seemed<br/>2 to steadily increase or spike and then abruptly<br/>3 stop."</p> <p>4 Do you know that Kahler is one of<br/>5 the pharmacies they looked at?</p> <p>6 A. Yes.</p> <p>7 MR. CLARK: Objection to<br/>8 form.</p> <p>9 Q. Was that with Nick still or no, or<br/>10 a different owner?</p> <p>11 A. I believe that was Nick.</p> <p>12 Q. Nick.</p> <p>13 If you go to PSI65, which is more<br/>14 than halfway through, on the bottom right-hand<br/>15 side. Take your time.</p> <p>16 A. Is it this page (indicating)?</p> <p>17 MR. CLARK: 65.</p> <p>18 A. Okay.</p> <p>19 Q. This is a form called "Increased<br/>20 Purchase Request for Controlled Substances."<br/>21 Earlier you testified that when someone wants to<br/>22 increase beyond the threshold, you would require<br/>23 this form to be filled out.</p> <p>24 Is this the form you were speaking</p>                                   | <p style="text-align: right;">Page 136</p> <p>1 Q. Okay. All right. I'm going to go<br/>2 to 67, if you don't mind. This is Shaffer<br/>3 Pharmacy. They want some more Oxy, and the<br/>4 reason is "Supplier mentioned an industry short<br/>5 supply. New" -- is that MOK?</p> <p>6 A. M.D.</p> <p>7 Q. Oh, I'm sorry. "M.D. moved in<br/>8 building." So they're saying, "Hey, supplier<br/>9 mentioned that there's a short supply and we've<br/>10 got a new doctor."</p> <p>11 Is that satisfactory to you?</p> <p>12 MR. CLARK: Objection to<br/>13 form.</p> <p>14 Q. As an explanation to increase Oxy?</p> <p>15 MR. CLARK: Same objection.</p> <p>16 A. This particular case, he didn't<br/>17 meet his threshold.</p> <p>18 Q. Okay.</p> <p>19 A. Okay? I called him because I<br/>20 wasn't used to what he was ordering at the time.<br/>21 This did not meet his threshold, okay?</p> <p>22 Q. Forget about threshold. It was --</p> <p>23 MR. CLARK: Were you still<br/>24 answering?</p>                  |
| <p style="text-align: right;">Page 135</p> <p>1 of?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Okay. So let me ask you, like, if<br/>4 they don't actually fill out answers, is that<br/>5 concerning to you? Like this person didn't<br/>6 answer 1 through 3. Is that concerning?</p> <p>7 1 is "Has the pharmacy<br/>8 prescription count increased?" 2, "Did the<br/>9 pharmacy change its business activities?" 3,<br/>10 "Has there been an increase in prescribers? Yes<br/>11 or no." And they just left it blank.</p> <p>12 Should that concern you before you<br/>13 approve a threshold increase?</p> <p>14 MR. CLARK: Objection to<br/>15 form.</p> <p>16 A. Not when the reason they gave me<br/>17 for the increase was that their primary was out<br/>18 of stock.</p> <p>19 Q. Okay.</p> <p>20 A. So there were no changes, so --</p> <p>21 Q. So how do you verify if Cardinal<br/>22 was actually out of stock? Is there a way to<br/>23 verify, or no?</p> <p>24 A. It's really hard, really hard.</p> | <p style="text-align: right;">Page 137</p> <p>1 A. Yes.</p> <p>2 So I had called him to find out<br/>3 why he was ordering this particular item,<br/>4 because it was unusual for him to do, okay? So<br/>5 I called Tom and talked to him personally and<br/>6 asked him about it, okay? He told me that his<br/>7 supplier was short, his primary, and that he had<br/>8 two new doctors move in, okay? So this form was<br/>9 sent to him and returned to me.</p> <p>10 Q. That is by definition -- the<br/>11 unusual pattern which you just described, that<br/>12 is, by definition, a suspicious order, right?</p> <p>13 MR. CLARK: Objection to<br/>14 form.</p> <p>15 A. I did my investigating and<br/>16 determined it was not, though.</p> <p>17 Q. Well, it was suspicious and then<br/>18 you made the phone call, right?</p> <p>19 MR. CLARK: Objection to<br/>20 form.</p> <p>21 A. No. It wasn't what he usually<br/>22 ordered from me.</p> <p>23 Q. It was unusual?</p> <p>24 A. So I made the call.</p> |

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| <p>1 Q. Right. It was unusual?</p> <p>2 MR. CLARK: Objection to</p> <p>3 form.</p> <p>4 A. It was -- it was -- yeah, it was</p> <p>5 unusual, yes.</p> <p>6 Q. And so "Supplier mentioned" -- did</p> <p>7 you fill this out or did he?</p> <p>8 A. The pharmacist fills this out,</p> <p>9 yeah.</p> <p>10 Q. "Supplier mentioned an industry</p> <p>11 short supply." What would the supplier be?</p> <p>12 A. His primary wholesaler.</p> <p>13 Q. Do we know who that is or --</p> <p>14 MR. CLARK: Objection to</p> <p>15 form.</p> <p>16 A. No.</p> <p>17 Q. Okay. Did you verify two</p> <p>18 physicians moved into the building?</p> <p>19 A. At the time, no, I did not, no.</p> <p>20 Q. Okay.</p> <p>21 A. No. He's in a doctors' building,</p> <p>22 multiple doctors' buildings, and I've had a</p> <p>23 relationship with him for -- probably since he's</p> <p>24 opened the pharmacy.</p>  | <p>1 Q. All right. And what does Nick</p> <p>2 say? Why do they need an increase here?</p> <p>3 A. He said they have a prescription</p> <p>4 count increase, and on -- it says they have 110</p> <p>5 new scripts per month, okay, for the last six</p> <p>6 months.</p> <p>7 Q. That's a reason? That's good</p> <p>8 enough?</p> <p>9 MR. CLARK: Objection to</p> <p>10 form.</p> <p>11 A. With my relationship with him and</p> <p>12 knowledge of that store?</p> <p>13 Q. Yeah. I'm asking.</p> <p>14 A. I believe, yeah, that's -- yeah.</p> <p>15 And I did call him. Before I send these out, I</p> <p>16 call them.</p> <p>17 Q. Sure.</p> <p>18 A. I call and talk to them. Because</p> <p>19 if I just send these out, they're not going to</p> <p>20 know what this is. So I call and talk to the</p> <p>21 pharmacist.</p> <p>22 Q. Do you know that part of the --</p> <p>23 part of the issue with the abuse of getting Oxy</p> <p>24 is more scripts are being written?</p> |
| Page 139   | Page 141  |
| <p>1 Q. I'm just saying, you know,</p> <p>2 hypothetically, you could have two leave and two</p> <p>3 come in, like two replace two. That would be</p> <p>4 something you'd want to know, right?</p> <p>5 MR. CLARK: Objection to</p> <p>6 form.</p> <p>7 Q. Two doctors leave, two come in,</p> <p>8 shouldn't affect the numbers that much, right?</p> <p>9 MR. CLARK: Same objection.</p> <p>10 A. It depends on what the specialty</p> <p>11 is.</p> <p>12 Q. Okay. Did you ask them what their</p> <p>13 specialties are?</p> <p>14 MR. CLARK: Same objection.</p> <p>15 A. I can't recall.</p> <p>16 Q. Okay. All right. And then we've</p> <p>17 got 69. Tabb Enterprises, Inc. Is that Nick,</p> <p>18 Nick Tabb, right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. So they wanted more, and</p> <p>21 this is going to be in 2015. This is years</p> <p>22 after the event we looked at earlier, right?</p> <p>23 That was 2012, I guess?</p> <p>24 A. Correct.</p> | <p>1 MR. CLARK: Objection to</p> <p>2 form.</p> <p>3 Q. For a period of time?</p> <p>4 MR. CLARK: Same objection.</p> <p>5 Q. And the fact that there's more</p> <p>6 scripts doesn't mean there's not a problem,</p> <p>7 right?</p> <p>8 MR. CLARK: Objection.</p> <p>9 Q. That's actually part of the</p> <p>10 problem, isn't it?</p> <p>11 MR. CLARK: Same objection.</p> <p>12 A. But the 110 could be scripts just</p> <p>13 in general, not scripts for a particular item.</p> <p>14 I think he's referring to 110 additional scripts</p> <p>15 per month on this, you know, overall. Not that</p> <p>16 I believe --</p> <p>17 Q. You said it's overall?</p> <p>18 A. Yeah, not on what I believe is a</p> <p>19 certain item.</p> <p>20 Q. Do you remember talking to him</p> <p>21 about that?</p> <p>22 MR. CLARK: Objection to</p> <p>23 form.</p> <p>24 A. I remember calling him, yes.</p>   |

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| 1 Q. Do you remember --<br>2 A. I would have called him. I don't<br>3 know if I remember it, but I would have called<br>4 him to get this paperwork.<br>5 Q. I'm not doubting that you called<br>6 him, but do you remember the conversation?<br>7 A. I can't be sure, no.<br>8 MR. REINS: Mark that as<br>9 Plaintiffs' Exhibit Number 2.<br>10 - - -<br>11 (PSI - J. Schoen Exhibit 2 marked.)<br>12 - - -<br>13 MR. CLARK: Are we continuing<br>14 from Kirk or are these new?<br>15 MR. REINS: They're new, but<br>16 I'll tell you what I've done here.<br>17 I've gotten really revolutionary.<br>18 I've identified a number of the<br>19 documents that have been exhibits<br>20 in other depositions by Bates numbers so<br>21 we know what they are, but I<br>22 haven't attached them all again<br>23 because, frankly, I have one copy<br>24 left. | 1 allowed every order that has come into<br>2 Prescription Supply to be filled in the way that<br>3 it came in; is that right?<br>4 A. No.<br>5 Q. And you've stopped many orders?<br>6 A. Yes.<br>7 Q. Okay. And over your 20 years,<br>8 there have been many orders that you did not<br>9 allow to go out?<br>10 A. Correct. Yes.<br>11 Q. I just wanted to clarify that one<br>12 point.<br>13 A. Yes, sir.<br>14 MR. CLARK: Okay. I have<br>15 nothing further.<br>16 - - -<br>17 RECROSS-EXAMINATION<br>18 BY MR. REINS:<br>19 Q. Here's what I understood you to<br>20 say earlier, if I understood you.<br>21 You said to me, you said, "Hey,<br>22 man, there's a bunch of reasons why I may not<br>23 ship something," and you gave me multiple<br>24 examples.  |
| 1 MR. CLARK: That's fine.<br>2 MR. REINS: Okay.<br>3 THE WITNESS: Are we done<br>4 with this, then?<br>5 MR. REINS: Yes, sir, we are.<br>6 And honestly, we're going to take a<br>7 quick break because I may be done.<br>8 THE VIDEOGRAPHER: We're<br>9 going off the record at 3:04.<br>10 (Recess taken.)<br>11 THE VIDEOGRAPHER: We're back<br>12 on the record at 3:14.<br>13 MR. REINS: I have no more<br>14 questions.<br>15 - - -<br>16 REDIRECT EXAMINATION<br>17 BY MR. CLARK:<br>18 Q. I just want to ask you one<br>19 question, Mr. Schoen. I want to clarify<br>20 something that Mr. Reins asked you about earlier<br>21 on and just make sure that we get this right.<br>22 Have you stopped orders before?<br>23 A. Yes. From going out? Yes.<br>24 Q. Okay. So it is not as if you've  | 1 I believe I then asked you at some<br>2 point later in the questioning if you had ever<br>3 stopped a shipment or prevented a shipment from<br>4 going out because you thought it was suspicious,<br>5 and your answer was "No, I have not."<br>6 Now, I understand you've stopped<br>7 orders and I respect that, and I understood<br>8 those to be consistent, but are you now telling<br>9 me that you have -- is it your testimony -- and<br>10 I don't think it's different than what your<br>11 counsel just asked you. I understand you've<br>12 stopped orders.<br>13 But are you testifying here today<br>14 that you've stopped shipments of orders from<br>15 going out or getting completed because they were<br>16 quote/unquote "suspicious"?<br>17 MR. CLARK: Objection to<br>18 form.<br>19 Q. Because I believe you testified<br>20 earlier you have not.<br>21 MR. CLARK: Same objection.<br>22 Q. Or you couldn't recall ever doing<br>23 that is what I recall, actually.<br>24 MR. CLARK: Same objection. |

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| <p>1        A. Possible. You know, I've stopped<br/>2 lots of orders.</p> <p>3        Q. I don't doubt that. But my<br/>4 question to you was, did you -- can you recall<br/>5 specifically here today stopping an order or not<br/>6 shipping an order because it was suspicious, and<br/>7 I believe your testimony was "I just don't<br/>8 recall."</p> <p>9        MR. CLARK: Objection to<br/>10 form.</p> <p>11      Q. Is that accurate?</p> <p>12      A. Well, I would have stopped them if<br/>13 they were suspicious or not suspicious if I<br/>14 didn't feel comfortable with that order going<br/>15 out.</p> <p>16      Q. I'm not arguing with you. I'm<br/>17 just asking you here today, here today, under<br/>18 oath, based on what you can recall, based on<br/>19 what you can remember -- I'm not saying it<br/>20 didn't happen, but can you testify here today<br/>21 you remember stopping a shipment because you<br/>22 thought the order was suspicious?</p> <p>23      MR. CLARK: Objection to<br/>24 form.</p> | <p>1 suspicious orders, correct? That's your job?<br/>2            MR. CLARK: Objection to<br/>3 form.<br/>4            Q. Right?<br/>5            A. That's part of my job.<br/>6            Q. Darn right, and you need to know<br/>7 what "suspicious" means in order to do your job,<br/>8 right?<br/>9            MR. CLARK: Same objection.<br/>10          Q. That's okay.<br/>11          A. I agree with that.<br/>12          Q. Yeah. All right. All I'm asking<br/>13 you is this: And I'm not -- this isn't some<br/>14 kind of trick like I'm getting you to say you've<br/>15 never held an order. I know you've held orders.<br/>16 I get it. And I'm not disputing that.<br/>17          But what I believe you testified<br/>18 earlier is, when I said "Can you recall stopping<br/>19 a shipment because you thought the order was<br/>20 suspicious, that one reason, do you remember<br/>21 doing it?"<br/>22          Do you remember doing it?<br/>23          MR. CLARK: Objection.<br/>24          Q. And that's what I'm asking.</p> |
| <p>1        Q. Can you remember that?</p> <p>2        MR. CLARK: Same objection.</p> <p>3        Q. I'm not saying it didn't happen,<br/>4 but do you have a recollection?</p> <p>5        MR. CLARK: Same objection.</p> <p>6        A. I've stopped orders because I just<br/>7 wasn't comfortable with them, for whatever<br/>8 reason that may be, okay? Lots of orders.</p> <p>9        Q. Have you ever -- I understand, but<br/>10 can you testify here today -- do you remember<br/>11 when we talked about this earlier?</p> <p>12      MR. CLARK: Objection to<br/>13 form.</p> <p>14      Q. I know there has been a lot of<br/>15 questions.</p> <p>16      A. There has been a lot of questions<br/>17 so ...</p> <p>18      Q. I get it.</p> <p>19      MR. CLARK: And I'm just<br/>20 going to put a standing objection<br/>21 down to the extent that this calls<br/>22 for a legal conclusion over the<br/>23 definition of suspicious.</p> <p>24      Q. Part of your job is to not ship</p>                                | <p>1        MR. CLARK: Objection to<br/>2 form.<br/>3        A. Because it was suspicious?<br/>4        Q. Yes. That you can recall.<br/>5        MR. CLARK: Objection to<br/>6 form.<br/>7        A. That one with the Tussionex, yes.<br/>8        Q. Fair enough. Any others that you<br/>9 can recall?<br/>10       A. I recall the Tussionex.<br/>11       Q. And that's fair. And I'll even be<br/>12 more of what I hope is fair to you, which is, if<br/>13 we look at the log and we see the log<br/>14 triggered -- and we see a sales history, and we<br/>15 see that it was triggered and then it wasn't<br/>16 shipped, that's something else that you and I<br/>17 spoke about that we can look at, even if you<br/>18 don't remember it here today, right?<br/>19       MR. CLARK: Objection to<br/>20 form.<br/>21       Q. Correct?<br/>22       A. Yeah.<br/>23       Q. Now, the Tussionex -- and I<br/>24 thought I covered it -- you said that that</p>  |

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| 1 particular order you were uncomfortable with<br>2 because it was very much unusual from what that<br>3 person had ordered before, right?<br>4 MR. CLARK: Objection to<br>5 form.<br>6 A. No. From what other people have<br>7 ordered from me.<br>8 Q. Okay.<br>9 A. Okay?<br>10 Q. Now, did you --<br>11 A. Yes.<br>12 Q. Sorry.<br>13 Did you pick up the phone and talk<br>14 to that pharmacy? Did you send them the form?<br>15 MR. CLARK: Objection to<br>16 form.<br>17 A. That was before the form. That<br>18 was a long time -- I can't recall when that was.<br>19 Q. That was a long time ago?<br>20 A. Yes.<br>21 MR. REINS: Gotcha.<br>22 I have no more questions.<br>23 Thanks for your time.<br>24 MR. CLARK: Nothing further. | 1 CERTIFICATE<br>2 STATE OF OHIO :<br>SS:<br>3 COUNTY OF _____:<br>4<br>5 I, JAMES T. SCHOEN, do hereby certify that I<br>6 have read the foregoing transcript of my<br>7 cross-examination given on February 27, 2019; that<br>8 together with the correction page attached hereto<br>9 noting changes in form or substance, if any, it is<br>10 true and correct.<br>11 _____<br>JAMES T. SCHOEN<br>12<br>13 I do hereby certify that the foregoing<br>14 transcript of the cross-examination of JAMES T. SCHOEN<br>15 was submitted to the witness for reading and signing;<br>16 that after he had stated to the undersigned Notary<br>17 Public that he had read and examined his<br>18 cross-examination, he signed the same in my presence<br>19 on the _____ day of _____, 2019.<br>20<br>21 _____<br>NOTARY PUBLIC - STATE OF OHIO<br>22<br>23 My Commission Expires:<br>24 _____, _____.  |
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| 1 THE VIDEOGRAPHER: We're<br>2 going off the record at 3:20 p.m.<br>3 (Signature not waived.)<br>4 - - -<br>5 Thereupon, at 3:20 p.m., on Wednesday,<br>6 February 27, 2019, the deposition was concluded.<br>7 - - -<br>8<br>9<br>10<br>11<br>12<br>13<br>14<br>15<br>16<br>17<br>18<br>19<br>20<br>21<br>22<br>23<br>24   | 1 CERTIFICATE<br>2 STATE OF OHIO :<br>SS:<br>3 COUNTY OF FRANKLIN :<br>4 I, Carol A. Kirk, a Registered Merit<br>Reporter and Notary Public in and for the State of<br>5 Ohio, duly commissioned and qualified, do hereby<br>certify that the within-named JAMES T. SCHOEN was by<br>6 me first duly sworn to testify to the truth, the whole<br>truth, and nothing but the truth in the cause<br>7 aforesaid; that the deposition then given by him was<br>by me reduced to stenotype in the presence of said<br>8 witness; that the foregoing is a true and correct<br>transcript of the deposition so given by him; that the<br>9 deposition was taken at the time and place in the<br>caption specified and was completed without<br>10 adjournment; and that I am in no way related to or<br>employed by any attorney or party hereto or<br>11 financially interested in the action; and I am not,<br>nor is the court reporting firm with which I am<br>12 affiliated, under a contract as defined in Civil Rule<br>28(D).<br>13<br>IN WITNESS WHEREOF, I have hereunto set my<br>14 hand and affixed my seal of office at Columbus, Ohio<br>on this 4th day of March 2019.<br>15<br>16<br>17<br>18<br>19 CAROL A. KIRK, RMR<br>NOTARY PUBLIC - STATE OF OHIO<br>20 My Commission Expires: April 9, 2022.<br>21<br>22<br>23<br>24 |

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| 1 DEPOSITION ERRATA SHEET                               |                            |
| 2 I, JAMES T. SCHOEN, have read the transcript          |                            |
| 3 of my deposition taken on the 27th day of February    |                            |
| 3 2019, or the same has been read to me. I request that |                            |
| the following changes be entered upon the record for    |                            |
| 4 the reasons so indicated. I have signed the signature |                            |
| page and authorize you to attach the same to the        |                            |
| 5 original transcript.                                  |                            |
| 6 Page Line Correction or Change and Reason:            |                            |
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